



COMMONWEALTH of VIRGINIA

Office of the Governor

John W. Marshall
Secretary of Public Safety

Robert P. Crouch, Jr.
Chief Deputy Secretary of Public Safety

Barry R. Green
Deputy Secretary of Public Safety

October 15, 2003

The Honorable Mark R. Warner
Governor of Virginia

The Honorable John H. Chichester, Chairman
Senate Committee on Finance

The Honorable Kenneth W. Stolle, Chairman
Senate Committee on Courts of Justice

The Honorable Emmett W. Hanger, Jr., Chairman
Senate Committee on Rehabilitation and Social Services

The Honorable Vincent F. Callahan, Jr., Chairman
House Committee on Appropriations

The Honorable Beverly J. Sherwood, Chairman
House Committee on Militia, Police, and Public Safety

Delegate Sherwood and Gentlemen:

Pursuant to the language included in Item #401C of the Appropriations Act (Chapter 1042 of the 2003 Acts of Assembly), I am submitting to you herewith my report on a plan to merge the Bureau of Law Enforcement Operations of the Department of Alcoholic Beverage Control into the Department of State Police. In preparing this report, I was assisted by a committee including representatives of both departments, and chaired by the Department of State Police. We have identified three potential options for effecting such a transfer: (1) transferring to the State Police all of the functions and positions currently within the umbrella of the ABC Bureau of Law Enforcement Operations, including all licensing, tax collection, and education functions; (2) transferring all sworn positions and related support personnel to State Police, while leaving licensing, tax collection, and education services at ABC; and (3) transferring responsibility for enforcing criminal laws relating to alcoholic beverages to State Police, while retaining administrative and regulatory enforcement functions at ABC.

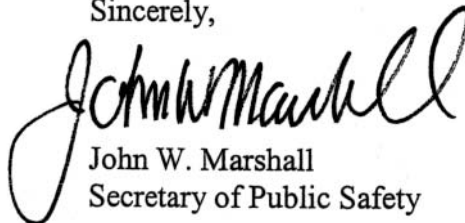
October 15, 2003
Page Two

In developing this document, we have been mindful of the Appropriation Act language requiring the plan to "take into account the savings to the Commonwealth from the consolidation of regional offices, chains of command, human resources and training operations with existing State Police operations." Our examination of the various scenarios for a transfer did not find such savings. Each option involved both one-time and ongoing additional expenses over and above the current expenditures for alcoholic beverage law enforcement under the current scheme. Each option also would include potential negative impacts on service levels.

If it is determined that a transfer of ABC enforcement functions to the State Police is desirable despite the additional cost and effects on services, the second option would be recommended. While not the least expensive, this option would have the least negative impact on services to the public and the affected employees.

My staff and the State Police and ABC personnel who participated in the preparation of this report are prepared to discuss the details and supporting data with you at your request.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Marshall". The signature is fluid and cursive, with a large initial "J" and "M".

John W. Marshall
Secretary of Public Safety

A Report by the Secretary of Public Safety

*Item #401 C, Chapter 1042
2003 Virginia Acts of Assembly*

**A Plan to Merge
the Department of Alcoholic Beverage Control's
Bureau of Law Enforcement
with the Department of State Police**



October 15, 2003



A Plan to Merge the Department of Alcoholic Beverage Control's Bureau of Law Enforcement with the Department of State Police

Table of Contents

Executive Summary	4
State Police Overview	7
ABC Bureau of Law Enforcement Overview	21
Governor's DUI Task Force Recommendations	31
Methods of Alcohol Law Enforcement in Other States	33
Senate Document #27—Overlapping Police Powers in State Agencies	37
Virginia Alcoholic Beverage Industry Positions	39
Analysis of Alternative Merger Plans	41
Conclusions	51
Appendix A	Recommendations from the Governor's Task Force to Combat Driving Under the Influence of Drugs and Alcohol
Appendix B	Senate Document #27 Executive Summary
Appendix C	Alcoholic Beverage Industry Written Comments
Appendix D	Draft Legislation

Acknowledgements

The Secretary of Public Safety designated the Department of State Police as the lead agency for the development of this plan. Captain Frank A. Williams, Chairman, Insurance Fraud Division of the State Police and W. Curtis Coleburn, Chief Operating Officer of the Department of Alcoholic Beverage Control co-chaired the planning team. The team was comprised of the following:

State Police

Captain George L. Daniels, Training Division
Captain Robert B. Northern, Bureau of Field Operations
Lieutenant Richard A. Denney, Bureau of Field Operations
Lieutenant Gary M. Jenkins, General Investigations Division
Lieutenant Robert L. Tavenner, Legal Specialist, Bureau of Criminal Investigation
Mr. Thomas W. Broyles, Property and Finance Division
Ms. Nancy G. Maiden, Planning and Research Unit, Richmond

Department of Alcoholic Beverage Control

S. Chris Curtis, Director of the Bureau of Law Enforcement
J. Craig Vanderland, Director of Policy, Analysis & Support Services
Joseph S. Johnson, Assistant Special Agent in Charge
Richard M. Brown, Assistant Special Agent in Charge
Brian F. Edwards, Special Agent
Katie E. Hudak, Special Agent

Proposed Merger of ABC Law Enforcement with State Police

Executive Summary

Purpose

Pursuant to language in Chapter 1042 of the 2003 Acts of Assembly, “*The Secretary of Public Safety shall develop a plan, including any necessary proposed legislation, to merge the Bureau of Law Enforcement Operations of the Department of Alcoholic Beverage Control into the Department of State Police, effective July 1, 2004. The plan shall take into account the savings to the Commonwealth from the consolidation of regional offices, chains of command, human resources and training operations with existing State Police operations. The plan shall be submitted to the Governor and the Chairmen of the Senate Committees on Finance, Courts of Justice, Rehabilitation and Social Services, and the House Committees on Appropriations and Militia, Police and Public Safety, by October 15, 2003.*”

Guidance from staff members of House Appropriations and Senate Finance Committees indicated that the intent of this plan was not necessarily to transfer the Bureau in its entirety, but those functions that were consistent with the mission of the State Police. Functions such as licensing, tax collections, and education were found to be inconsistent with that mission.

A planning committee was convened to evaluate the options for merging the Bureau of Law Enforcement of the Department of Alcoholic Beverage Control with the Department of State Police. The Department of State Police led development efforts with representation from various parts of both agencies.

Contents of the Plan

- 1) An overview of the mission and basic functions of the Department of State Police.
- 2) An overview of the mission and basic functions of the Bureau of Law Enforcement Division of the Department of Alcoholic Beverage Control.
- 3) Recommendations of the Governor’s DUI Task Force.
- 4) A review of methods for alcohol law enforcement found in other states.
- 5) Review of Senate Document #27 (1996) concerning Overlapping Police Powers in State Agencies.
- 6) Virginia Alcoholic Beverage Industry Positions.
- 7) Identification and review of alternatives for merging the Bureau of Law Enforcement within the Department of State Police.

Summary of Potential Merger Options

In order to provide a complete and thorough plan, the committee chose to evaluate three possible scenarios. These include:

1. **Merging the Entire Bureau**—This option involves transferring all the functions currently under the purview of Bureau of Law Enforcement to State Police.
2. **Merging only the sworn personnel in the Bureau**—This option leaves such functions as Tax Management, Education, Security, and License Records Management with ABC and transfers only sworn positions.
3. **Merging a portion of sworn personnel**—This option has an infinite number of permutations, but the intent is to transfer only a portion of the current sworn agents (handling criminal work) to State Police leaving the remainder with ABC to handle administrative functions such as license investigations and inspections.

Critical Points for Consideration

The language was clear in the Appropriations Act that economic concerns were the primary driver for proposing the merger. Consequently, the planning committee focused its attention on identifying options with the greatest potential for consolidating offices, eliminating command staff and personnel, and reducing the cost of operation. As the various options were developed, the committee evaluated the merits of various operating structures; employment issues such as classification, benefits, pre-employment and employment work force standards, and training; equipment; office space; and other issues with a financial bearing on the plan. In addition, central to the evaluation of each potential plan was the assumption that implementation would “do no harm” to existing levels of service and public safety.

The committee reviewed methods for alcohol law enforcement found in other states and considered input from the regulated community. The committee also reviewed the recommendations of Governor Warner’s Task Force to Combat Driving under the Influence of Drugs and Alcohol issued on August 27, 2003.

Conclusions of the Planning Committee

The method used by the Commonwealth for alcoholic beverage regulation and enforcement is consistent with methods found in other states. In almost every instance, and particularly in states with the highest numbers of licensed establishments, alcoholic beverage regulation and enforcement are a combined entity. Rarely was licensing, regulation and enforcement split between different agencies within state government. For many years, the “enforcement” and “administrative” functions of alcoholic beverage regulation were split within the Department of Alcoholic Beverage Control. In 1983, these functions were combined to improve efficiency and service levels. In the early 90’s, splitting the functions was tried as a way to bring increased specialization to various functions. In less than six months, the functions were recombined because increased workload and travel time reduced efficiency and effectiveness. From a service

perspective, the Department of Alcoholic Beverage Control receives high marks from the regulated community for efficient service and equity.

The planning committee finds no economic benefit to any of the options for merging the Bureau of Law Enforcement within the Department of State Police. The incremental annual cost to the Commonwealth ranged from \$1.9 million to \$4.1 million depending on the option. These do not take into account significant one-time implementation costs ranging from \$1.3 to \$3.6 million (depending on the option). While each option *could* be implemented, each has significant one-time implementation costs and would increase the on-going annual expenditures for alcohol law enforcement in the Commonwealth.

The economic issue aside, the planning team was not able to identify any significant improvements in service or public safety resulting from the merger. Proceeding with such a merger would place at risk the essential services provided by both agencies. Depending on the option chosen, the mission of the State Police could be significantly expanded to administrative functions such as issuing licenses, collecting taxes and processing administrative law cases. Such expansion is not consistent with the law enforcement mission of the State Police and likely to place at risk existing priorities.

A faded, light blue and yellow Virginia State Police badge is centered in the background. The badge features the state seal of Virginia at the top, which depicts a Native American figure holding a bow and arrow. Below the seal, the words "VIRGINIA STATE POLICE" are written in a stylized font.

Overview of Department of State Police Operations

Overview of Department of State Police Operations

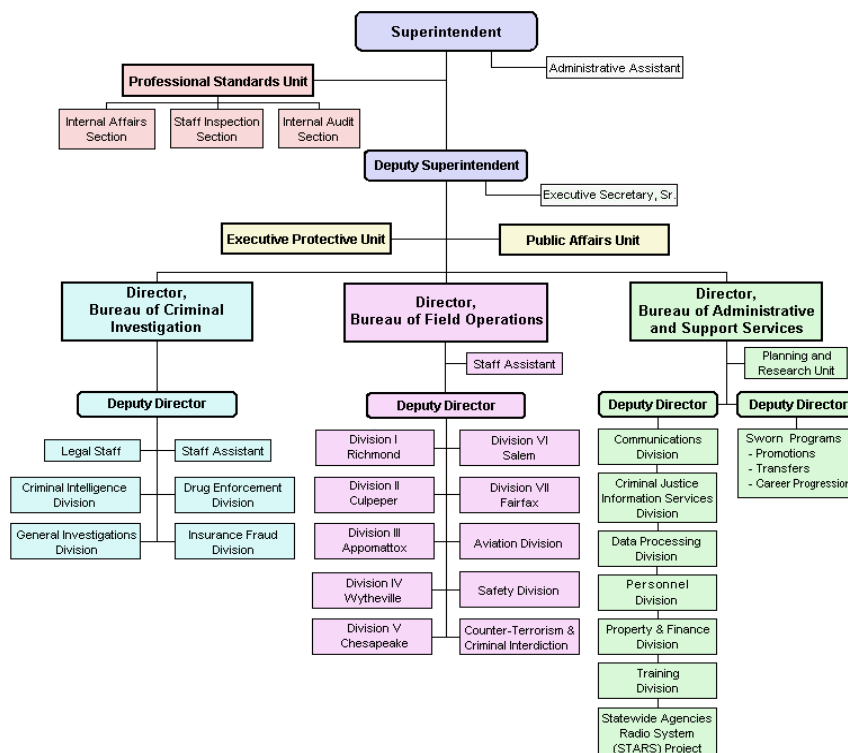
Mission

The Department's mission is to provide the Commonwealth of Virginia with a responsive statewide police department, independent yet supportive of other law enforcement agencies; to preserve law and order; to enforce criminal, traffic and regulatory laws; and, to provide essential public safety services efficiently and effectively to citizens of the Commonwealth.

Structure

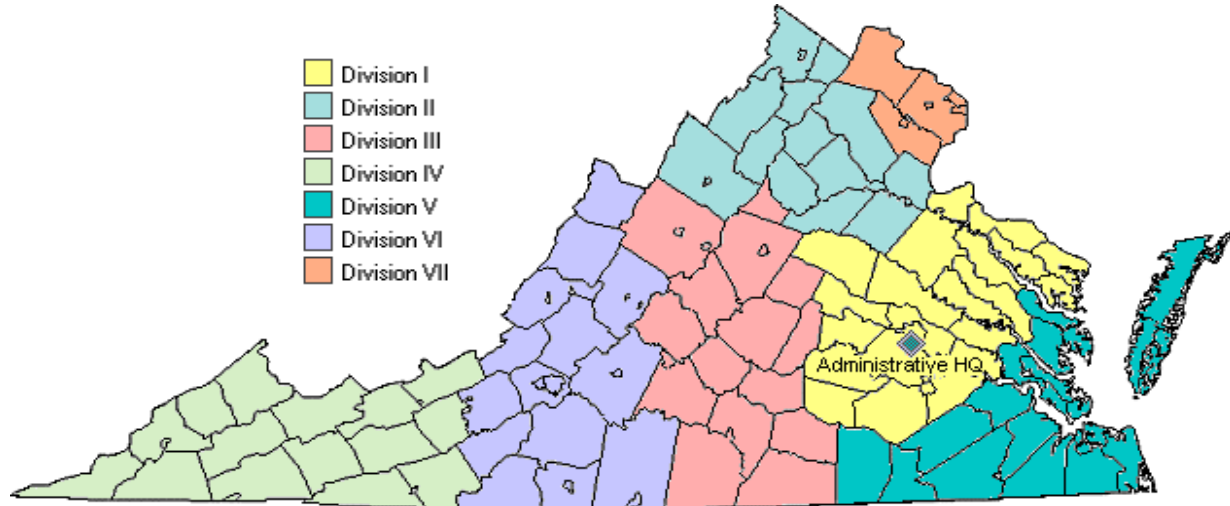
The Department is divided primarily into three Bureaus: Administrative and Support Services, Criminal Investigation, and Field Operations. The Superintendent's Office includes the Professional Standards Unit and the Public Affairs Unit. The directors of the three Bureaus report directly to the Deputy Superintendent. Also reporting to the Deputy Superintendent is the Executive Protective Unit and the Public Affairs Unit.

The Superintendent, with the rank of Colonel, is appointed by the Governor and serves as agency head of the Virginia Department of State Police. On Jan. 31, 2002, Governor Mark R. Warner re-appointed Colonel W. Gerald Massengill as Superintendent. On October 1, 2003, Colonel Massengill will retire after 37 years service with the Commonwealth. His successor will be Lieutenant Colonel W. Steve Flaherty, current Director of the Bureau of Administrative and Support Services.



Regions

The Department of State Police operates with seven divisions. Each region is comprised of multiple areas, each with its own office.



Division Overview

Bureau of Criminal Investigation

The Department provides a thorough and comprehensive investigation of all criminal matters mandated by statute and established Department policy through the Bureau of Criminal Investigation. The Bureau is mandated to investigate any matter referred by the Governor. The Attorney General, commonwealth's attorneys, chiefs of police, sheriffs and grand juries may request the Department to investigate matters which constitute Class 1, 2 or 3 felonies. The Bureau also conducts investigations of elected officials when directed by the Governor, Attorney General or grand juries. The Bureau consists of the Divisions of Criminal Intelligence, Drug Enforcement, General Investigations and Insurance Fraud.

Criminal Intelligence Division

The primary purpose of the Criminal intelligence Division (CID) is to identify, document and disseminate criminal intelligence concerning persons involved in organized crime and terrorist groups. The CID is composed of three units - the Research Unit, the Analytical Unit, which includes the Virginia Criminal Intelligence Center (VCIC) and the Technical Support Unit.

The CID operates the VCIC, which is a repository of intelligence information that is available to all Virginia law enforcement personnel. VCIC personnel provide research and analytical support to criminal justice agencies. Two research agents and seven field intelligence agents interact with investigators and task forces to collect and supply information on current investigations.

CID is also responsible for the Virginia Narcotic Pointer Index system, the Help Eliminate Auto Theft (HEAT) Hotline, the Drug Violation Hotline and the Insurance Fraud Hotline.

The Department participates in the Virginia Association of Law Enforcement Intelligence Documentation (VALID) and publishes a monthly intelligence bulletin, The VALIDATOR, which is disseminated throughout the intelligence community. CID administers for the Department; the Witness Protection Program, which provides both funding and technical assistance for the protection of threatened witnesses in the Commonwealth.

Drug Enforcement Division (DED)

The Drug Enforcement Division (DED) was established to provide full-time attention to the enforcement of drug laws in Virginia, and is committed to supporting local law enforcement agencies in their efforts. DED's mission is accomplished through the efforts of sworn members and civilian support personnel in eight distinct functional areas:

- £ · DED Regional Field Offices
- £ · Multi-Jurisdictional Task Forces
- £ · Joint VSP/Federal Task Forces
- £ · Multi-Jurisdictional Narcotics Interdiction Unit
- £ · Marijuana Eradication/Operation Grand Slam
- £ · G.I.A.N.T. Operations
- £ · Pharmaceutical Drug Diversion Unit
- £ · Asset Forfeiture

DED Regional Field Offices

DED has in excess of 100 special agents across the Commonwealth responsible for performing operational narcotics enforcement investigations, including special undercover, wire intercept and marijuana eradication efforts. DED also routinely assists with federal and local law enforcement narcotics investigations.

Multi-Jurisdictional Task Forces

DED participates in 25 multi-jurisdictional task forces throughout the state. These task forces consist of state and local investigators pooling resources and personnel to combat illicit narcotics manufacturing, trafficking and usage in the Commonwealth of Virginia.

Marijuana Eradication/Operation Grand Slam

The Commonwealth remains a prime location for the cultivation of the marijuana plant. Virginia's domestically grown marijuana has the potential for being a major cash crop. With DEA funding, the Department of State Police, along with the assistance of other state and local law enforcement agencies and the Virginia Army National Guard, operates year-round eradication initiatives to eliminate domestically grown marijuana and growers.

Governor's Initiative Against Narcotics Trafficking (G.I.A.N.T.)

The G.I.A.N.T. mission is to facilitate and assure coordination and cooperation among member agencies. Six special agents are assigned to G.I.A.N.T. The five facets of the G.I.A.N.T. mission are:

- £ Development of intelligence pertaining to domestically grown marijuana, both indoor and outdoor, with the eradication of this marijuana and successful prosecution of the growers as a primary goal of G.I.A.N.T.;
- £ Development of intelligence concerning air smuggling into Virginia by the use of contacts to monitor suspicious activities of all known airports in the Commonwealth, and by locating clandestine airstrips and identifying users;
- £ Reduction of the supply of illegal drugs entering and being transported within the Commonwealth by interdicting drug shipments via land, air, and waterway;
- £ Development of procedures that eliminate duplication of activities and breakdowns in communication among the various state agencies and law enforcement authorities, and;
- £ Utilization of the resources of county and city law enforcement agencies to the maximum extent possible.

Pharmaceutical Drug Diversion Unit

The diversion of legitimate pharmaceuticals to illicit purposes continues to be a severe problem in Virginia. In fact, drug diversion predates the massive abuse of other drugs we know so well today. The Pharmaceutical Drug Diversion Unit works with the DEA, the Department of Health Professions, and the Department of Medical Assistance Services, plus local law enforcement agencies, to eliminate the diversion of prescription drugs to illicit purposes.

A major educational role of the unit is teaching local law enforcement officials about the extent of the drug diversion problem in their own jurisdictions and what they can do to end it. This unit also includes the education of health care professionals, both physicians and pharmacists, about the magnitude of the problem and the importance of self-policing and ensuring the integrity of their individual health care delivery systems.

Asset Forfeiture

Asset forfeiture occurs under Code of Virginia Section 18.2-249, and various state and federal statutes. Cash and proceeds derived from the sale of forfeited assets are placed in the Drug Investigation Special Trust Account and the Asset Forfeiture Account and drawn from as the need arises. In 1991, the Asset Forfeiture Unit was formed to identify and seize assets that could be traced to the sale and/or manufacture of illicit narcotics. So as to more efficiently and effectively serve the Department with financial investigations, the unit was decentralized in 1995. Currently, special agents operate out of the field offices across Virginia. This unit also assists local and other state asset forfeiture units by providing investigative support, technical training and development program techniques.

General Investigations Division (GID)

The General Investigations Division (GID) is an investigative branch of the Virginia State Police Bureau of Criminal Investigation, with over 182 authorized positions, of which 134 are special agents and the remaining 48 positions are supervisors and support personnel. GID responds to complaints about violations that constitute Class 1, 2 and 3 felonies. Major emphasis is placed on responding to requests from the Governor, Attorney General,

commonwealth's attorneys, grand juries and chiefs of police and sheriffs throughout the Commonwealth. A major priority of the GID is to provide specialized assistance to local law enforcement agencies. Personnel are permanently assigned to strategic locations throughout the state in order that adequate response can be made to any location in a reasonable time.

GID headquarters personnel are responsible for the day-to-day coordination of investigations occurring throughout the state and related administrative matters. Duties of headquarters personnel also include the following:

Arson Investigation

A lieutenant is the chief arson investigator and coordinates activities between the Bureau of Criminal Investigation and other investigative agencies throughout the state. Arson investigation training and assistance are provided when requested by localities. Within the Bureau there are a number of special agents who have been specifically trained to investigate arson-related matters.

Bomb and Explosives-Related Matters – State Police has one of the largest bomb squads in the United States. Each field office has agents trained in explosive render safe procedures and post blast investigations. The agents work in conjunction with an explosives detection canine during bomb threat searches. Each field office maintains specialized equipment to include bomb suits, x-ray equipment and an explosive transport vehicle.

Auto Theft Unit

Members of the unit work closely with the Department of Motor Vehicles, National Insurance Crimes Bureau, and federal and local law-enforcement investigating crimes related to auto theft rings, chop-shops, insurance fraud and other illegal activity. The Help Eliminate Auto Theft (HEAT) Program Administrator is also a part of the Auto Theft Unit. The HEAT Program is an insurance industry-funded program established by Section 38.2-414 of the Code of Virginia. The Program was established to create a "hotline" system to receive auto theft related tips from citizens. Callers who provide information that leads to the arrest of individuals for auto theft related crimes are eligible for a cash reward of up to \$10,000.00.

Crime Scene Examination

The Division is staffed with crime scene technicians trained by the Division of Forensic Science. The technicians are often called upon by other State Police employees and by local law enforcement agencies to examine and evaluate evidence at the crime scene.

Fugitive Apprehension Unit

The Unit's mission is to effect the swift apprehension of all fugitives, particularly in connection with violent crime. The Unit is mandated to work closely with local and federal law enforcement agencies to accomplish its goal. Each General Investigations Field Office has a special agent assigned whose primary responsibility is to locate and apprehend wanted individuals with emphasis on violent crimes.

Economic/Cyber Crimes Unit

In September 1998, the Cybercrimes Unit was established within the Bureau of Criminal Investigation (BCI), General Investigations Division. The unit is comprised of special agents stationed throughout the state. The following crimes will receive the prioritization of this unit:

- £ · Crimes involving the Internet
- £ · Child Pornography
- £ · Fraud
- £ · Threats of Death or Bodily Injury
- £ · Any other crime exclusively utilizing the Internet
- £ · Computer Fraud
- £ · Computer Trespass
- £ · Computer Invasion of Privacy
- £ · Theft of Computer Services
- £ · Personal Trespass by Computer
- £ · Telecommunications
- £ · Cellular Phone Cloning Fraud

National White-Collar Crime Center

The Deputy Director of the Bureau of Criminal Investigation is the Department's representative to the National White-Collar Crime Center (NW3C), an organization that is federally funded by the Bureau of Justice Assistance, U. S. Department of Justice. The NW3C provides a national support network for enforcement agencies, state regulatory bodies, state and local prosecution offices, and other organizations that prevent, investigate, and prosecute economic and high-tech crimes. Virginia State Police is one of over 1300 agencies who participate regularly in NW3C services which include no cost training, investigative support services, information sharing, fraud complaint management, research, and case funding for law enforcement.

Violent Crimes Investigative Unit

The Violent Crimes Investigative Unit has special agents assigned to each field office. These agents investigate or assist local law enforcement agencies in the investigation of homicide, sexual assault, abduction/kidnapping, felonious assault and any other violent crime.

Criminal investigative analyst special agents are assigned to the Unit and assist State Police and other law enforcement agencies with criminal investigative analysis of violent crime. These agents also present training to law enforcement agencies on criminal investigative analysis.

The Department also has the Violent Criminal Apprehension Program which is a statewide data information center which collects, collates, and analyzes crimes of violence, specifically murder. Cases submitted to VICAP are compared to all other cases in the database in an attempt to identify similar cases; once a similar case has been identified, the agencies involved are notified of the similar case(s).

Insurance Fraud Division (IFD)

Effective Jan. 1, 1999, the General Assembly approved establishing an Insurance Fraud Investigative Division within the Department of State Police, Bureau of Criminal Investigation. The purposes of this Unit are threefold:

- £ 1. Initiate independent inquiries and conduct independent investigations when the Department has reason to believe that insurance fraud may have been or is currently being committed, and to undertake studies to determine the extent of such insurance fraud;
- £ 2. Respond to notification or complaints alleging insurance fraud generated by federal, state and local police, other law-enforcement authorities, governmental agencies or Units and any other person;
- £ 3. Review notices and reports of insurance fraud; select the incidents of suspected fraud that, in its judgment, require further detailed investigation; and conduct the investigations.

The Insurance Fraud Division currently has special agents located strategically throughout the state. Their primary focus is on fraudulent property and casualty insurance claims that in essence violate [Section 18.2-178](#), taking money under false pretenses. The law now requires that if insurance professionals have reason to believe that someone is violating this statute, they are compelled to disclose this information to the Department of State Police.

Examples of insurance fraud include:

- £ faking accidents
- £ staging burglaries
- £ fraudulently reporting theft and Workers' Compensation injuries

Bureau of Field Operations

The Bureau of Field Operations is primarily responsible for the patrolling of over 64,000 miles of state roadways and interstate highways throughout Virginia. Uniformed State Police personnel provide both traffic enforcement and criminal law enforcement as the need arises and based upon the ability of local law enforcement to respond. The bureau also is responsible for managing the Motor Vehicle Safety Inspection Program, the enforcement of motor carrier and commercial vehicle safety regulations, and the Special Operations Division.

The Commonwealth's geography and size dictate the need to decentralize uniformed police services into seven field divisions. These divisions are further subdivided into 48 State Police areas that consist of one or more cities and/or counties. Manpower is allocated based upon workload demands at the city and county level.

Each year, troopers assigned to this division ensure the safety of Virginia's highways by:

- £ Working over 250,000 staff days patrolling 30,000,000 miles of highway.
- £ Responding to a million incidents.
- £ Investigating approximately 40,000 vehicle crashes and assist almost 250,000 stranded or otherwise distressed motorists
- £ Making approximately 750,000 traffic arrests, including 250,000 for speeding, 100,000 for reckless driving and 9,000 driving under the influence. In addition, also make over 20,000 criminal arrests.
- £ Performing in-depth safety inspections of heavy commercial vehicles removing un-safe vehicles from service.

Operation Alert

Operation Alert is a program especially designed to interdict criminal activity on the highways of Virginia. Specialized training is provided to troopers to heighten their awareness when engaged in traffic stops and during public contacts urging the trooper to look for unusual circumstances that typically indicate criminal conduct and activity.

Aviation Unit

The State Police Aviation Unit was formed on Jan. 1, 1984, to provide for the administration and coordination of the Department's aviation resources. The Unit operates six helicopters and four airplanes from four bases located in Lynchburg, Manassas, Abingdon and Richmond. The Unit's primary mission is to provide aircraft for search, rescue, law enforcement and medical evacuation.

Medical Evacuation --The Department operates three helicopter medical evacuation programs that serve Central and Southwest Virginia. These programs provide rapid response, advanced medical procedures, and transportation of critically injured patients to a level one trauma center.

Search and Rescue --The Aviation Unit responds to hundreds of requests for searches for: escapees, missing persons, criminals, and stolen property. Utilizing a Forward Looking Infra-Red system on two helicopters and a 30 million-

candlepower searchlight on the other helicopters, the Unit has been successful in locating fugitives, missing persons, and lost children.

Surveillance--The Aviation Unit also conducts surveillance using its aircraft for drug or narcotic surveillance and other criminal matters.

Other Duties --The Aviation Unit provides aerial support to any federal, state or municipal agency whereby the solution of a police problem or mission may be obtained. These flights included photographing crime scenes, providing support for presidential motorcades, participating in multi-agency task force efforts, and demonstrations of the capabilities of the Aviation Unit's aircraft.

Motorist Assistance Program

The Motorist Assistance Program operated by the Department currently operates in the four largest metropolitan areas in Virginia with operations in Chesapeake, Fairfax, Richmond and in the Roanoke/Salem areas. State Police motorist assistance aides provided services such as fixing flat tires, providing gasoline, jump-starting vehicles, traffic control, and making cellular phone calls for additional assistance or to notify family members of a stranded motorist's situation. Motorist Assistance Aides also were instrumental in the arrest of drunk drivers and aggressive drivers by reporting erratic driving behavior to troopers who subsequently made the apprehension.

Commercial Vehicle Enforcement

The Department also has Commercial Vehicle Enforcement Officers whose primary responsibilities include the inspection and measurement of commercial vehicles that utilize the highways of the Commonwealth. This program is vital to Virginia's overall highway safety program through the protection of roadways from overweight and oversized vehicles; through assurances that commercial vehicles are mechanically safe to operate on the highways; and through the validation of all commercial vehicle operators to ensure they are properly licensed to operate a commercial vehicles in the Commonwealth.

Specialty Teams

Each of the seven field divisions deploys tactical teams, canine teams and SCUBA teams. These teams are available 24 hours a day to assist local law enforcement agencies or State Police personnel. Tactical teams assist in the execution of high-risk search or arrest warrants and in dealing with hostage situations. Canine teams are available to track lost persons or fugitives, search for suspects of crimes, and detect illegal drugs or explosives. SCUBA teams are used to recover drowning victims or evidence of criminal activity.

Safety Division

With the implementation of the Motor Vehicle Inspection Program in 1932, Virginia embarked upon and has continued in a leadership role in the promotion of highway safety. As of Dec. 31, 2000, there are over 4,000 active inspection stations and 13,000 licensed safety inspectors located throughout the Commonwealth of Virginia. Inspectors make over seven million inspections annually typically rejecting approximately 20 percent of all vehicles submitted for inspection for unsafe components. This Division also investigates inspection complaints inspection stations or inspectors. Complaints typically include

administrative errors made by inspection stations, and the majority of errors complaints were corrected by counseling sessions.

Motor Carrier Safety

Motor Carrier Safety teams ensure that trucks and buses meet safety requirements on Virginia's highways. Troopers assigned to the Motor Carrier Safety program regularly present lectures to the public and other interested groups on motor carrier safety and hazardous materials regulations. They also serve as instructors in criminal justice training seminars. Motor Carrier Safety teams respond to hazardous material spills or incidents conduct post-crash investigations of heavy commercial vehicles involved in accidents.

Bureau of Administrative and Support Services

The Bureau of Administrative and Support Services is comprised of most of the Department's non-sworn personnel as well as some sworn employees. The Bureau includes the Divisions of Communications, Criminal Justice Information Services, Data Processing, Personnel, Property and Finance, Training and a Planning and Research Unit. Employees in these areas provide the Department, especially troopers and special agents in the field, with essential services through their extensive technical and professional expertise. These services range from:

- £ · Purchasing and configuring personal computers.
- £ · Designing complex and sophisticated computerized systems to maintain critical criminal files.
- £ · Installing police radios and radar units in patrol vehicles.
- £ · Designing and implementing a Computer-Aided Dispatch System.
- £ · Employing a qualified and diversified work force.
- £ · Managing and maintaining Department buildings and grounds across the State.
- £ · Preparing, monitoring, and accounting for the Department's annual budget.
- £ · Providing criminal justice agencies with rapid access to local, state and national criminal justice files.
- £ · Supervising Virginia's Firearms Transaction Program.
- £ · Ensuring that all sworn employees meet mandated training requirements.
- £ · Overseeing the State's Drug Abuse Resistance Education (DARE) Program.
- £ · Conducting research into innovative law enforcement techniques and products and coordinating the Department's accreditation and grant management programs.
- £ · Developing and proposing legislation involving traffic safety and criminal statutes, serves as liaison during General Assembly sessions for discussion of issues.

Communications Division

Responsibility for the proper installation, operation, and maintenance of telephone, land mobile radio, and microwave radios is assigned to the Communications Division. Under the command of the Communications Officer, the Division designs, installs, operates and maintains land mobile radios, microwave radios and private telephone networks.

Criminal Justice Information Services Division

The Criminal Justice Information Services Division (CJIS) oversees State operations involving:

- £ National Law Enforcement Telecommunications System (NLETS)
- £ National Crime Information Center (NCIC)
- £ Virginia Criminal Information Network (VCIN)

These systems provide criminal justice agencies throughout Virginia with rapid access to local, state and national files related to:

- £ wanted or missing persons
- £ stolen property including motor vehicles
- £ escapees
- £ hazardous material spills
- £ severe weather conditions
- £ airplane crashes

CJIS also operates the Central Criminal Records Exchange, Sex Offender Registry, Missing Children Information Clearinghouse, Automated Fingerprint Identification System, and the Firearms Transaction Center. The Criminal Justice Information Services Division is also responsible for the maintenance of all files within the Department including the implementation, monitoring, destruction and archiving of records in accordance with the Records Retention Schedule.

Data Processing Division

The Data Processing Division operates one of the largest computer centers in state government. The goal of the Data Processing Division (DP) is to provide information technology support to meet the Virginia State Police's mission of law enforcement services to the citizens of the Commonwealth of Virginia.

DP is comprised of four sections – AFIS, Computer Operations, Systems Development, and Systems Engineering. DP supports all aspects of the Department's information technology needs, including procurement, installation, operation, maintenance, security, and application development services.

Personnel Division

The mission of the Personnel Division is to provide effective human resource management, with continued emphasis on attracting qualified personnel and diversifying the work force. The Personnel Division provides all employees with a comprehensive centralized human resource program that ensures best practices and supports the Department's changing environments. The Personnel Division is comprised of five sections covering employment practices, benefits, compensation, background investigations, and the office of the nurse practitioner.

Property and Finance Division

The Property and Finance Division encompasses a wide range of financial and property management functions. It is responsible for preparing, monitoring and accounting for the Department's annual operating budget, which was almost \$200 million for fiscal year 2003. It is responsible for the procurement, warehousing and distribution of supplies and equipment as well as the management and maintenance of more than 69 buildings and grounds across the State.

Training

The Training Division manages the Department's professional development programs, oversees the Drug Abuse Resistance Education Program (DARE), and operates the State Police Academy. The Training Division also provides instruction in the handling of patrol and narcotic and explosives detection canines for the State Police and local police agencies. As space and activity schedules permit, academy facilities are shared with other state, federal and local agencies for training purposes.

One of the academy's chief functions is to conduct training for the Department's new Trooper Trainees. Each basic session consists of 37 weeks of training, to include:

- £ Twelve weeks of basic classroom instruction
- £ Four weeks of field training in their home county with an experienced Field Training Officer
- £ An additional 17 weeks of classroom instruction
- £ Four weeks of post-academy field training

The curriculum includes 129 subject areas and over 1,400 hours of instruction. Classroom subjects include laws of arrests, search and seizure procedures, and testifying in court.

Planning and Research Unit.

The Planning and Research Unit provides planning and policy support to all divisions of the Department and is responsible for:

- £ Conducting evaluations of new equipment, procedures and technologies;
- £ Updating staffing formulas;
- £ Conducting evaluations of existing programs and policies;
- £ Developing and monitoring the Department's performance measures;
- £ Providing support for developing grant applications and budgetary submissions;
- £ Developing and monitoring the Department's Strategic Plan;
- £ Maintaining departmental manuals;
- £ Preparing the annual Use of Force Report;
- £ Monitoring the Department's budgeting performance measures; and

- £ · Coordinating the Department's accreditation and grants management programs and the Mandates on Local Government.

Other Operating Units

Professional Standards Unit

The Professional Standards Unit is responsible for the internal affairs, internal audit and staff inspection functions within the Department of State Police. The Internal Affairs Section conducts and coordinates the investigations of allegations of misconduct on the part of Department employees.

Public Affairs Unit

The Public Affairs Unit maintains daily contact with the public and media, disseminates news releases about Department programs and activities, develops and implements public awareness programs and answers questions on many topics. Personnel in this unit often respond to the scenes of major highway and criminal incidents to assist the media in providing information to the public. The staff includes the director of public affairs and a public relations specialist at Administrative Headquarters and public relations coordinators deployed in field division headquarters in Chesapeake, Fairfax, Richmond and Salem.

Executive Protective Unit

The primary responsibilities of the Executive Protective Unit are to provide security and transportation for the Governor and immediate family members. The most capable personnel from the Department are selected for this assignment to maintain a high level of loyalty, trust, and respect between the Governor and each trooper. In addition to providing security, this unit must coordinate with the Governor's staff regarding the Governor's scheduling, travel arrangements, lodging, and other necessary commitments to ensure cohesive and orderly activity. There are times when out-of-state governors and other dignitaries visit the Commonwealth, and this unit coordinates their security needs and itineraries to ensure travel requirements and appointments are synchronized with those of the Governor.



Overview of Department of Alcoholic Beverage Control Operations

Overview of Department of Alcoholic Beverage Control Operations

Mission Statement

The mission of the Department of Alcoholic Beverage Control is to control the distribution of alcoholic beverages; operate efficient, conveniently located retail outlets; enforce the laws of the Commonwealth pertaining to alcoholic beverages and youth access to tobacco products; and provide excellent customer service, a reliable source of revenue, and effective public safety. The mission of the agency translates into three primary goals: Public Safety, Customer Service and Revenue Production and Stability. The Department is in the process of completing its strategic plan for the next three years and the Bureau of Law Enforcement has an integral role in achieving each of these goals.

History of Liquor Control

With the repeal of national prohibition in 1933, the authority to regulate the alcoholic beverage industry reverted to the individual states. Virginia voters went to the polls that year to decide whether Virginia should ratify the Twenty-First Amendment repealing prohibition. At the same time, they were asked to decide whether Virginia should continue state prohibition or institute a scheme of liquor control, once the amendment went into effect. By approximately a 2-to-1 margin, Virginians chose to ratify the Twenty-First Amendment and adopt a plan of liquor control for Virginia. A commission presented a scheme that was adopted by the 1934 General Assembly to control the sale of alcoholic beverages and encourage temperance by operating state wholesale and retail operations for the sale of distilled spirits, and licensing and regulating private purveyors of beer and wine, beverages with lower alcohol contents.

The original legislation gave limited police powers to officers and agents of the Alcoholic Beverage Control Board, as well as to managers of the government stores. At the next session of the General Assembly in 1936, this provision of the Alcoholic Beverage Control Act was amended to provide full statewide police authority to the Board and such officers, agents and employees as it may designate. This provision has remained unchanged since July 1, 1936.

History of ABC Law Enforcement

Although the law enforcement authority of the Board and its agents has not changed since 1936, the organization and duties of those who enforce ABC laws and regulations has changed dramatically. From the earliest days until 1982, separate Inspection and Enforcement divisions handled license regulation and criminal law enforcement duties. The Inspection Division monitored licensees for compliance with laws and regulations governing licensed operations, while the Enforcement Division investigated criminal activity, whether unlicensed (illegal distilleries, bootlegging operations, or nip joints) or licensed establishments (gambling, prostitution, drug violations, or illegal sales). Other units of the department maintained license records, collected and audited taxes paid by manufacturers and wholesalers, and provided alcohol-related educational programs to licensees and the general public.

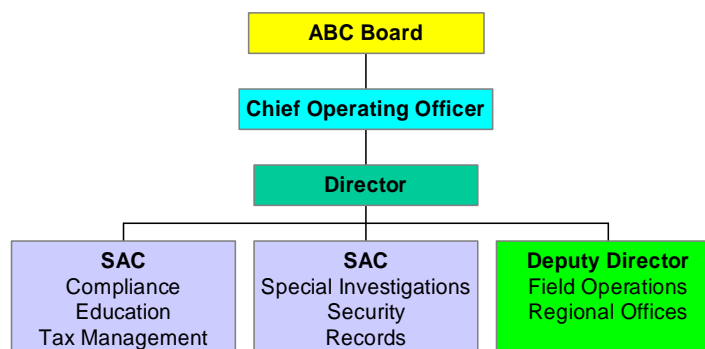
In 1982, the ABC Board examined its enforcement arms in light of circumstances that had greatly changed since 1936. In the early days of the department, moonshining and bootlegging operations were rampant, and there were relatively few licensees. In 1941, ABC enforcement agents seized and destroyed 1,771 moonshine stills in the Commonwealth. By the 1980's, this activity was much reduced. During the 1983-1984 fiscal year, agents seized 144 stills. During the same time period, the number of licenses issued by the Board multiplied. From about 6,000 active licenses in 1941, there were over 13,000 licenses in 1982. The workload of handling application investigations and inspections for the increased number of licenses was challenging the resources of the Inspection Division. Additional personnel were needed to handle the load. The Board determined that a single organization performing both administrative and criminal law enforcement tasks would be more efficient. In 1982, the Inspection and Enforcement divisions, along with the licensing unit, were consolidated into a single Regulatory division. As a result, the Board was able to eliminate 9 positions and to avoid the addition of another 10 inspectors.

Since the consolidation, several additional administrative functions have been added to the Regulatory division, which has also undergone a number of name changes until becoming the Bureau of Law Enforcement Operations in the mid-1990's. The Tax Management section was added to the mix in the mid-1980's, making the bureau responsible for the collection and auditing of over \$60 million in wine and beer taxes annually paid by wine and beer distributors, as well as administration of the provisions of the Wine and Beer Franchise Acts. More recently, the bureau assumed responsibility for the department's Education section, providing seller-server training to licensees, as well as alcohol education to college and high school students across Virginia. A mid-1990's legislative action by the General Assembly added enforcement of laws restricting youth access to tobacco to the department's duties. Responsibility for security at the agency's office and store facilities has also been assigned to the bureau.

Functions within the Bureau of Law Enforcement

Organizational Overview

The Bureau of Law Enforcement is one of the operating divisions of the Department. A Director that reports to the Chief Operating Officer manages the bureau. Under the current organization structure, a Deputy Director manages Field Operations in the 8 Regional Offices. In addition, the Director's staff also includes a Special Agent in Charge (SAC) who manages Special Investigations, Security and Records Management and a SAC who manages Compliance, Education and Training, and Tax Management.



Budget

The Department receives no general fund support for any of its operations including the Bureau of Law Enforcement. In FY 2004, funding for the law enforcement program is approximately \$11.9 million. This includes approximately \$900,000 in appropriation for Hearings and Appeals that is not part of the Bureau of Law Enforcement. All central support for enforcement such, as Human Resources, Payroll, Information Technology, etc. are not included in this appropriation. In the 2003 session, the General Assembly cut the Bureau's budget by \$1.6 million (10%). When combined with prior cuts by the administration, the bureau's budget has been reduced by approximately 20%.

As an Enterprise Fund agency, all revenues required to support expenditures have to be generated through operations. In the case of the Bureau of Law Enforcement, these revenues take the form of fines, penalties, and license fees. Historically, these revenue streams are generally several million dollars short of covering enforcement expenses that necessitates using revenues raised from store sales to support operations.

Manpower

The Bureau of Law Enforcement is comprised of numerous sections comprised of sworn and non-sworn personnel. Presently the Bureau has 176 positions, 116 of which are sworn special agent positions, 19 are sworn supervisory positions, and the remaining 41 are civilian positions. The geographic allocation of these positions is covered later in this section.

Bureau employees have considerable experience in their positions with the average length of service exceeding 14 years. The Bureau has undergone significant turnover (15%) in the last 12 months because of retirements and separations for other employment.

Central Office Functions

Special Investigations, Security and Records Management

The Special Investigations, Security and License Records Management sections are managed by a SAC, along with the Security Director and Records Office Manager. The Special Investigations section includes one senior special agent accountant who conducts complex financial investigations and coordinates the Bureau budget and one senior special agent surveillance tech that coordinates surveillance equipment logistics and the implementation of the imaging and incident-based reporting computer systems.

The Security section includes a lieutenant, 3 sergeants, 2 security officers, a receptionist and part-time security officers as needed to provide 24 hour security for the ABC Central Office and warehouse facility and monitor and coordinate security alarms for all ABC Stores.

The License Records Management section includes 5 administrative office specialists who process, collect, and manage license records. License Records Management maintains records for 17,500 ABC licenses, issuing renewals annually, tracking about 2,000 new license applications and 2,000 license disciplinary actions annually, and maintaining records for about 2,500 arrests annually. This section collects over \$7 million in license

taxes and fees each year. There are also 3 administrative office specialists who perform procurement and inventory functions for the Bureau. These positions are assigned to the ABC Central Office.

Compliance, Education and Training, and Tax Management

The Compliance, Education and Training, and Tax Management sections are managed by a SAC. The Compliance section includes 4 senior special agents located in Chesapeake, Staunton, Alexandria and Richmond who regulate and enforce wholesale and manufacturer regulations and laws within their area of the state, and audit wholesale wine and beer taxes collected from licensed wholesalers and farm wineries.

The Education and Training section includes 4 education support specialists who prepare, present, and coordinate a variety of educational and informational presentations to licensees, colleges and high schools, industry and interest groups, and the general public. The SAC in this area coordinates all agency law enforcement training. There are 2 administrative office specialists in this area who support the education and training efforts.

The Tax Management section includes 3 tax examiners and 5 administrative office specialists who collect and process over \$60 million annually in wholesale wine and beer taxes. This section also processes approval for labels for new wine and beer products and administers wholesaler territory assignments under the Beer and Wine Franchise Acts. These positions are assigned to the ABC Central Office.

Field Operations

The Department utilizes eight geographic regions to allocate resources to fulfill its regulatory and customer service mission. Region 1 is located in Roanoke with a satellite office in Abingdon. Region 2 is located in Lynchburg. Region 3 is located in Staunton with a satellite office in Charlottesville. Region 4 is located in Alexandria. Region 5, Richmond North, and Region 6, Richmond South, are located in the central office. Region 7 is located in



Hampton, and Region 8 is located in Chesapeake. **Note: Approximately 48% of the field agents work from their homes because of space limitations in regional offices.** The chart on the following page provides a breakdown of activities and resources allocated to each of the 8 regions.

Department of Alcoholic Beverage Control

Current Workload for Regions and Agents

Region		1	2	3	4	5	6	7	8	Total
Location	Roanoke/SW	Lynchburg	Staunton	Nova	Richmond/N	Richmond/S	Hampton	Chesapeake		
Area (sq miles)	9,116	8,888	8,735	1,337	4,543	3,343	3,693	3,095		42,750
Population	804,594	606,320	726,807	1,737,641	679,605	661,321	635,500	992,648		6,844,436
Licensees*	1,637	1,407	1,740	3,013	1,470	1,434	1,246	1,866		13,813
Supervisors	2	2	1	2	2	2	2	2		15
Support	2	1	1	1	1	1	1	2		10
Agents	16	14	14	20	10	12	10	15		111
# Work from Home	16	10	6	7	6	4	3	1		53
% Home	100%	71%	43%	35%	60%	33%	30%	7%		48%
Applications	1,102	1,030	1,309	2,190	2,309	2,478	1,447	1,514		13,379
Inspections	1,420	1,033	1,871	1,551	860	1,245	1,265	1,655		10,900
Licensee/Public Training	992	689	764	1,138	229	693	649	1,307		6,461
Violations/Warnings/Orders	384	224	232	561	179	248	296	225		2,349
Observations	3,922	1,879	3,641	4,610	2,205	4,105	2,281	2,826		25,469
Criminal Investigations	2,345	2,347	1,782	1,264	1,003	1,823	2,127	1,953		14,644
UAB - Alcohol	618	653	620	1,073	752	591	669	588		5,564
UAB - Tobacco	556	597	463	403	492	477	525	347		3,860
Arrests	451	256	291	255	205	292	504	222		2,476
Arrest Assists	482	143	154	116	37	55	54	105		1,146
Contacts	7,414	3,650	7,624	7,830	6,038	5,886	2,834	5,808		47,084

Constituent Satisfaction with Services

As part of its strategic planning process, the Department actively gathers constituent input concerning the satisfaction with its services. Constituent groups of the Bureau of Law Enforcement include: General Public, Licensees, Community Groups, Local Governments and Law Enforcement, Colleges and Universities and many others.

Generally, all constituent groups are very satisfied with the services provided by the Department. Listed below are key responses from the surveys conducted by the survey research lab at Virginia Commonwealth University:

- £ · Most Virginians feel that drunk driving and underage drinking and underage tobacco are problems in their community.
- £ · While awareness of most government programs is typically very low, the public was generally aware of most major programs of the Department of ABC including its role in law enforcement.
- £ · The licensee community sees the Department as “very effective” at promoting responsible sale and consumption of alcoholic beverages. The vast majority believes ABC provides extremely clear guidance concerning the responsibilities of licensure, particularly during their annual inspection.
- £ · Almost all licensee surveys stated that agents act professionally, responded in a timely manner and address problems according to their expectations.
- £ · Prior surveys have found that even licensees that have been found guilty of violations believe they have been treated equitably and fairly.

As part of its strategic planning process, the Department also surveys of its constituents. Listed below are surveys of local community groups and law enforcement.

- £ · The vast majority of community groups surveyed utilize publications and materials provided by the Department of ABC.
- £ · Surveys of local law enforcement indicate the vast majority are quite familiar with their local ABC agent, ABC education and training materials, etc. and believe the services offered to their community are very beneficial. In addition, the overwhelming majority indicated that agents acted professionally, responded in a timely manner and provided the necessary services to address their problems.

Duties of ABC Special Agents

The Bureau of Law Enforcement, utilizing the concepts of community policing, has assigned agents to specific geographic regions. The average agent’s territory is comprised of almost 400 square miles, 60,000 people and 125 licensed establishments, but varies widely due to geography and population density.

Special Agents have very broad discretion to use several levels of sanctions in dealing with violations of ABC laws and regulations that are also criminal by statute, to achieve the desired ABC licensee compliance and ensure public safety. Agents may educate,

counsel, issue written warnings, issue violation reports that bring the licensee to a hearing, or bring criminal charges by summons or warrants that go to court. Such a combination of duties makes it difficult to accurately determine what is “Enforcement” and what is “Administrative.”

The average agent is required to process approximately 120 applications annually and make approximately 125 inspections of licenses businesses. In addition, on a per agent basis, 230 observations, 130 criminal investigations, 85 compliance checks, and 22 arrests are made on an annual basis. Again, wide variation between agents and regions is evident.

Listed below are the various duties performed by ABC special agents along with a general approximation of the time spent on each function.

License Application Investigations

ABC is required by law to conduct background investigations of applicants for ABC licenses, including all officers, managers, and owners of 10% or more of corporations, to ensure they meet the statutory and regulatory requirements. To conduct a thorough background investigation for retail and wholesale applicants, special agents conduct criminal history record checks; check their business and financial backgrounds, as well as the history of the establishment location and any past ABC licenses. Similar investigations are conducted in connection with applications for various permits issued by ABC. ABC also issues one-day banquet and special event licenses that require more limited background checks by Special Agents. Approximately 2,300 retail applications and 11,000 one-day licenses are investigated on an annual basis occupying approximately 12% of an agent’s time.

Licensed Establishment Inspections

ABC Special Agents have the unique legal authority to conduct inspections during reasonable hours of any location where alcoholic beverages or records thereof are kept in the Commonwealth and anyone in charge of such location who refuses to grant access for inspections is subject to arrest. Special Agents conduct approximately 10,000 inspections annually occupying approximately 4% of the agent’s time.

Criminal Investigations

Special Agents regularly conduct criminal investigations of unlicensed illegal alcohol activities such as moonshine stills, bootleggers and nip joints, as well as illegal alcohol activities at licensed establishments, such as selling to and serving underage and intoxicated patrons. Special Agents also investigate any criminal activity related to or occurring at licensed establishments, such as gambling, drugs, prostitution, fraud, tax evasion or money laundering, or criminal activity at ABC stores, including thefts or robberies. According to the Department’s activity tracking system, approximately half of an agent’s accountable time relates to criminal investigations. This includes all time allocated for investigations, arrests, court appearances, preparing and serving warnings, violation reports, Board orders, etc. This also includes research into ABC hotline cases, researching corporate officers, processing case reports, and any investigations involving

ABC Stores. Special Agents issue approximately 2,500 warnings and violations annually, make and/or assist in 3,500 arrests and conduct over 9,000 checks for compliance with underage alcohol and tobacco laws. Approximately 50% of the arrests made by the Department are for misdemeanor underage alcohol violations or civil violations for underage tobacco sales. Criminal investigations account for approximately 30% of a special agents time.

Underage Buyer (UAB) Program--Alcohol

The Underage Buyer (UAB) Program is a primary enforcement strategy initiated in 1998 under which agents conduct 400 alcohol compliance checks statewide every month. Teams of 2 special agents and a youthful appearing UAB with valid Virginia driver's license conduct alcohol compliance checks at ABC retail licensee retailers. Annual random samples are included for measurement purposes. The alcohol non-compliance rate has been reduced from 38 percent in 1999 to 13 percent in 2003.

Tobacco Enforcement Program

Effective July 1, 1997, the Virginia General Assembly passed legislation designating ABC as the primary state agency for minor access tobacco law enforcement under § 18.2-371.2 of the Code of Virginia. In 1998, the legislature gave ABC special agents state tax information and inspection authority at wholesale cigarette dealers under § 4.1-103.01. In 2000, more legislation was enacted expanding ABC responsibility for tobacco law enforcement into areas of contraband gray-market, export-only cigarettes under § 4.1-105 and § 58.1-1037. In 2003, legislation was adopted giving ABC responsibility for regulating and collecting tax on direct delivery of cigarettes and enforcement of counterfeit cigarettes and tax stamps under § 18.2-246.6 et.seq. BLEO actively enforces the minor access tobacco law and is currently implementing the direct delivery regulation, however, resource constraints have not allowed enforcement of contraband and counterfeit cigarettes to date.

The Department also conducts routine compliance checks for tobacco retailers. The BLEO Tobacco Enforcement Program started in 1998 under contract to the U.S. Food and Drug Administration (FDA) from August 1998 to March 2000 under which 8,000 tobacco compliance checks were conducted for about \$640,000. Subsequent to the FDA contract, the Virginia Tobacco Settlement Foundation (TSF) funded annual contracts from June 2000 to June 2003 for 400 tobacco compliance checks monthly with a maximum reimbursement of \$500,000 in FY 2001 and \$375,000 in FY 2002, FY2003 and FY 2004.

BLEO also contracts with the Department of Mental Health Mental Retardation and Substance Abuse Services (DMHMRSAS) to conduct the annual random tobacco compliance checks under the federal Synar program. DMHMRSAS has signed annual contracts from May 2001 to present for approximately 1,000 Synar random sample tobacco compliance checks for a maximum reimbursement of \$137,000 in CY 2001, \$115,000 in CY 2002, and \$175,000 for CY2003 that are currently being conducted and will be completed in September 2003.

The U.S. Center for Substance Abuse Prevention (CSAP) administers the Synar compliance program that requires states to have a tobacco non-compliance rate less than 20 percent to receive full funding under Substance Abuse Prevention and Treatment (SAPT) block grants. Virginia Community Service Boards risk losing over \$20 million annually if the Synar non-compliance exceeds 20 percent.

Licensee Investigations and Audits

ABC Special Agents also conduct a number of administrative investigations involving licensed businesses upon the change of any circumstances that might impact their qualification for a license or the manner or place in which the privileges are exercised.

ABC laws and regulations contain a number of provisions regarding financial issues, including minimum food sale requirements, a mixed beverage to food ratio requirement for mixed beverage licensees, and general financial responsibility requirements.

ABC Enforcement Joint Taskforce Operations

BLEO is usually involved in several joint taskforce operations with other local, state or federal agencies at any particular time. Some major examples include:

- £ · **Operation Butt Out** (1995-96)--Tobacco smuggling
- £ · **Operation Lightning Strike** (1999-2001)--Untaxed liquor investigation
- £ · **Operation R-1, Dragonfire and Flaming Star** (2001-)--Cigarette smuggling investigation

Licensee and General Public Education

Special Agents are routinely used as part of the Department's efforts to educate the general public concerning compliance with ABC laws and regulations. Frequently this takes the form of seller/server training where ABC agents conduct day-long interactive training sessions. Events such as this occupy approximately 3% of the agent's time.

Miscellaneous

According to the Department's system, approximately 50% of the agent's time on such activities as making observations (12%) where no action is taken (either criminally or administratively), making contacts with the public and/or licensed community (14%) to answer general questions, or completing paperwork, vehicle maintenance, special assignments, etc. (22%).

**Recommendations from the
Governors Task Force to
Combat Driving Under the
Influence of Drugs and
Alcohol**

Recommendations of the Governors DUI Task Force

On August 15, 2002, Governor Mark R. Warner announced the creation of the Task Force to Combat Driving Under the Influence of Drugs and Alcohol. The 42-member Task Force, co-chaired by the Secretaries of Public Safety and Transportation, was a diverse group including members of the executive, legislative, and judicial branches of state government, and included representatives from business and professional organizations and advocacy groups. The Task Force was charged with assessing current efforts in combating driving under the influence (DUI), and recommending new strategies to further reduce driving and boating under the influence (BUI).

In creating this Task Force, Governor Warner acknowledged the work done by a previous task force in 1983 in combating driving and boating under the influence. Despite these efforts, the problem of DUI and BUI was not eradicated, and the number of crashes related to impaired driving has increased in the past three years. To reverse this trend the Task Force:

1. Reviewed the achievements made in combating driving and boating under the influence during the past 20 years;
2. Identified and assessed current efforts being taken to address DUI and BUI;
3. Identified national state-of-the-art efforts to combat DUI and BUI;
4. Identified gaps existing between current efforts and state-of-the-art efforts and recommended actions to bridge those gaps;
5. Recommended new strategies with initiatives to address high-risk populations such as underage drinkers and repeat DUI offenders;
6. Recommended actions to sustain and enhance the public's awareness and concern for the danger posed by driving under the influence;
7. Identified potential funding sources for recommendations;
8. Recommended strategies for improved coordination of management, funding and resources at state and local levels.

The complete recommendations of the Task Force can be found Appendix A. There are several recommendations that are pertinent to this report.

The Department of Alcoholic Beverage Control should retain the responsibility for wholesale distribution and retail sale of distilled spirits, enforcement of laws related to the sale and distribution of alcohol, licensing authority, and training for servers and retailers. No additional costs are anticipated.

The Department of Alcoholic Beverage Control should expand efforts to create and support community and college coalitions designed to prevent underage and excessive drinking, no later than 2008. Projected costs are \$200,000 annually.

**Other State's Methods
For Alcohol Regulation and
Law Enforcement**

Other State's Methods for Alcohol Regulation and Law Enforcement

Role of ABC Agencies in Public Health and Safety

Nationally and in many states, policy makers have adopted a prevention theory called "Environmental Management." Conceptually, this means that regulatory strategies, licensing requirements, density of locations, tax policy, enforcement and educational efforts are geared towards directly or indirectly influencing the consumption levels of alcoholic beverages. In recent years, alcoholic beverage control (ABC) entities throughout the country have emerged as leaders in the prevention of public health and safety issues such as underage consumption, over consumption by adults, and drunk driving because of their unique positions in state government.

£ · *"As regulatory bodies, ABC agencies have the potential to be a particularly effective prevention partner in reducing underage access to alcohol as well as high risk drinking by college students. The right laws and regulations can minimize opportunities for young people to use alcohol and maximize opportunities for effective enforcement and prevention."* Regulatory Strategies for Preventing Youth Access to Alcohol, Pacific Institute for Research and Evaluation, Rockville, MD, 1999).

£ · *"As a result of this increasing activism, ABC's are being recognized by researchers, local, national and state activists and organizations as an effective and logical partner in prevention of underage drinking and alcohol abuse. As a result, ABC's are attracting grant funding from national sources such as the National Highway Traffic Safety Administration, the Office of Juvenile Justice and Delinquency Prevention, the U.S. Department of Education and other private and public funding sources to address alcohol-related problems in their respective states."* Partners in Prevention, NHTSA 2002.

Other State Methods of Alcoholic Beverage Regulation and Enforcement

Rather than 'recreate the wheel,' it is useful to look at the methods used by other states for liquor law enforcement. Of the top 25 states with the most liquor licenses, 11 use the method currently used by the Commonwealth. A separate alcohol control board or commission is responsible for the regulation and enforcement of ABC laws. (The top three states are California, New York and Texas and all use ABC Departments).

Twelve use a separate alcoholic beverage control division within a larger agency such as the Department of Revenue or Public Safety. These units are in essence miniature alcoholic beverage control commissions. They are responsible for all phases of regulation and enforcement. Florida is an example of this type of system. The Division of Alcohol and Tobacco within the Department of Business and Professional Regulation is responsible for alcohol regulation and enforcement.

Rarely are the regulation, licensing and enforcement operations split between entities. There are only three cases in the top 25 where licensing and enforcement are split and only two cases the state police are utilized for enforcement purposes: Pennsylvania and South Carolina.

<i>Location of Alcoholic Beverage Control Functions Top 25 States (# of Licenses)</i>			
Rank	State	Location	Licensees
1	California	ABC Dept.	66,288
2	New York	ABC Dept.	46,238
3	Texas	ABC Dept.	41,107
4	Florida	ABC Division	36,926
5	Ohio	Split (ABC/Investigative Division)*	22,983
6	North Carolina	Alcohol Law Enforcement Div.	22,631
7	Pennsylvania	Split (PLCB/SP)	18,755
8	Illinois	ABC Dept.	18,702
9	Michigan	ABC Division	17,359
10	Wisconsin	Alcohol & Tobacco Division	16,338
11	Virginia	ABC Dept.	13,936
12	Georgia	Alcoholic & Tobacco Division	13,726
13	South Carolina	Split (ABC Div/SP)	13,338
14	Louisiana	ABC Division	12,654
15	Alabama	ABC Dept.	11,625
16	Washington	ABC Dept.	11,253
17	Missouri	ABC Division	11,100
18	New Jersey	ABC Division	10,403
19	Massachusetts	ABC Dept.	9,895
20	Indiana	Alcohol and Tobacco Comm.	9,622
21	Colorado	ABC Division	9,144
22	Iowa	ABC Division	9,116
23	Arizona	Dept. Liquor Licenses	8,488
24	Oregon	ABC Dept.	8,259
25	Kentucky	ABC Dept.	7,197

**Public Safety Agency (Investigative division handles alcohol violations and food stamp fraud)*

There is generally a lot of commonality between alcohol law enforcement agents nationally. Most alcohol law enforcement officers in the country are sworn officers and carry firearms. There is wide variety, however, in the breadth of enforcement powers. Approximately 40% of the states place limitations on the officer concerning the types of arrests that can be made (e.g powers are generally limited to alcohol-related offenses and do not include drugs or weapons).

Pennsylvania Liquor Control Experiences

A legislative initiative in 1987 removed the Bureau of Law Enforcement from the Pennsylvania Liquor Control Board (PLCB) and placed it within the purview of the Pennsylvania State Police. Presently, the state police command staff are the only sworn positions within the Bureau. All enforcement agents are civilian positions with limited enforcement duties. While no formal evaluation was ever performed, anecdotal evidence suggests the move has created significant cost issues and inefficient processes. Listed below are comments from PLCB staff concerning the merger:

“The separation of Enforcement from the PLCB created a new and costly enforcement program as a subordinate Liquor Law Bureau of the State Police. These employees are not PSP troopers... but rather civilian employees with powers limited to liquor law violations. They are supervised by PSP sergeants and higher-ranking officers. There is no career path for the enforcement officers since the higher ranks are all held by PSP personnel who frequently rotate out of the network. This causes inconsistency in policies and institutional knowledge of practice and procedures.”

“From a legal perspective, it was a horrendous experience with licensees caught between the two agencies. The PLCB would give its interpretation of the liquor laws and the enforcement division would proceed to enforce its own interpretation. Often the two did not mesh.”

“Quality of enforcement, particularly in complex cases that require in-depth knowledge of the beverage industry, has declined.”

**Senate Document #27 (1996)
Overlapping Police Powers
in State Agencies**

Overview of Senate Document #27 (1996)

Overlapping Police Powers in State Agencies

In 1995, the General Assembly passed SJ 340, which required the Secretary of Public Safety to “conduct an analysis of the overlapping of agencies with statewide police powers in the Commonwealth.” The Secretary designated the Department of State Police as the lead agency in the study.

The study concluded:

- £ *The agencies are considered to be specialized in the functions they perform and law enforcement is but one of many activities each agency performs to achieve its overall mission. Further law enforcement efforts are typically restricted to the agency’s respective specialization, either through statute or administratively. The Department of State Police is the only agency whose primary mission is to provide general law enforcement services throughout the Commonwealth.*
- £ *The concept of merging or consolidating entities with common missions, goals and objectives does not appear to apply where these agencies are concerned. Enforcement tends to be one of the many activities these specialized agencies perform to serve their unique constituencies. Thus, there appears to be little congruency between the focus of these agencies and the overall mission of the State Police.*
- £ *If attaining economies of scale is the compelling reason for considering consolidation, there is not indication that any economic advantage would be a reality.*

The Executive Summary of the 1996 Study is attached in Appendix B.

**Constituent Positions
Concerning the
Proposed Merger**

Constituent Positions **Concerning the Proposed Merger**

On August 19, 2003 the Secretary of Public Safety provided a public forum for interested parties of the alcoholic beverage regulated community to voice their opinions about the proposed merger. Listed below are the speakers and/or comments received at the hearing and during the planning process:

Speaker	Representing:	Comments	Position
Mr. Dennis Gallagher	Virginia Beer Wholesalers	Written/Oral	Opposed
Mr. Charles Duvall	Virginia Wine Wholesalers	Written/Oral	Opposed
	Southland Corporation		
Mr. Michael O'Conner	Virginia Petroleum, Convenience & Grocery Association	Oral	Opposed
Mr. Thomas Lisk	Virginia Hospitality and Travel Association	Oral	Opposed
Mr. Daniel Durrett	Virginia Police Benevolent Association	Oral	No Position
Chief Henry W. Stanley	Henrico County Police	Written	Support

All the alcoholic beverage representatives (representing the majority of alcoholic beverage licensees in the Commonwealth) expressed satisfaction for the current system and none registered support for the merger. The representative of the Police Benevolence Association expressed the opinion that any merger should consider ABC as the equivalent of agents contained in the Bureau of Criminal Investigations within the State Police. Written comments can be found in Appendix C.

**Evaluating Options
For Merging the
Bureau of Law Enforcement
within the
Department of State Police**

Evaluating Options for Merging the Bureau of Law Enforcement within the Department of State Police

The language in the Appropriations Act implied that economic concerns were the primary driver for proposing the merger. Consequently, the planning committee focused its attention on identifying options with the greatest potential for consolidating offices, eliminating command staff and personnel, and reducing the cost of operation. As the various options were developed, the committee evaluated the merits of various operating structures; employment issues such as classification, benefits, pre-employment and employment work force standards, and training; equipment; office space; and other issues with a financial bearing on the plan. In addition, central to the evaluation of each potential plan was the assumption that implementation would “do no harm” to existing levels of service and public safety.

The study developed three possible scenarios for merging the functions of the Bureau of Law Enforcement into the State Police. These include:

1. **Merging the Entire Bureau**—This option involves transferring all the functions currently under the purview of Bureau of Law Enforcement to State Police.
2. **Merging only the sworn personnel in the Bureau**—This option leaves such functions as Tax Management, Education, Security, and License Records Management with ABC and transfers only sworn positions.
3. **Merging a portion of sworn personnel**—This option has an infinite number of permutations, but the intent is to transfer only a portion the current sworn agents (handling criminal work) to State Police leaving the remainder with ABC to handle administrative functions.

Option One: Merging the Entire Bureau

The literal interpretation of the language involves the complete transfer to State Police of all functions currently housed within the Bureau of Law Enforcement (regardless of budget program). The State Police would assume all functions currently allocated to the Bureau of Law Enforcement. Under this option, all 176 positions currently with the Bureau of Law Enforcement would be transferred to State Police. This includes all agent, supervisory and support positions including License Records Management, Tax Management, Wholesaler Compliance, Security, and Education.

Under this scenario, the Department of State Police assumes responsibility for investigating and issuing licenses, conducting all alcohol and tobacco compliance checks, the collection of \$60 million in wholesale wine and beer taxes, ABC central warehouse and store security, and all other functions currently performed by the Bureau.

Listed below are the critical assumptions of this option:

- £ **Structure**—The Bureau of Law Enforcement Operation’s functions, duties and responsibilities will be established as the Division of Alcoholic Beverage Control

within Bureau of Criminal Investigation. This divisional designation will ensure the proper focus on the ABC law enforcement and related functions. This designation will also give the Division of ABC equal organizational status as other Virginia Department of State Police Divisions, e.g., General Investigations, Drug Enforcement, Insurance Fraud, Criminal Intelligence, Criminal Justice Information Services, Property and Finance, Safety, Communications, Training, and Personnel.

- £ · **Classification/Compensation**—The personnel would be classified as State Police Special Agents with supervisors being equivalent to First Sergeants, Lieutenants or Captains, depending on their current positions within the Department of Alcoholic Beverage Control. Only those employees below the minimum in their respective bands will be afforded raises. All others would be transferred at their current salaries. Increasing the size of the State Police work force has other compensation impacts related to the number of agents afforded career progression adjustments. ABC agents would transfer in with no in-band seniority, which places them at the bottom of the career progression track.
- £ · **Pre-employment Requirements**—All personnel being received must meet the employment prerequisites of the Virginia Department of State Police including background checks, physical standards and graduation from the training academy.
- £ · **Training**—To complete the transition training and to fully integrate the 136 sworn positions into the Virginia Department of State Police will involve an extended period of time. Transitional training would require 12 to 15 weeks, enabling the State Police to assign the ABC sworn employees to other divisions within the Bureau of Criminal Investigation. Because of the magnitude of the training requirements, between 12 and 16 months of time would be required to complete the training.
- £ · **Equipment**—The majority of ABC's special agent equipment is compatible with State Police requirements. The main difference is in firearms. ABC currently uses H & K .40 caliber pistols and the State Police uses a SigArms .357 caliber. Replacement of all ABC weapons will be required (assumes trade-in value) which necessitates additional training and qualifying. In addition, State Police agents are currently supplied with the M-4 Patrol rifle not currently available to ABC agents.
- £ · **Office Space**—Approximately 48% of ABC's special agents currently work from their home. This option would not be available at the State Police and there is not sufficient space in State Police division offices to house the additional agents. Many of ABC's existing offices are co-located with store management personnel in facilities that also house liquor stores.
- £ · **Retirement Benefits (SPORS vs. VALORS)**—The agency contribution for SPORS (State Police) is 30% while the VALORS (ABC) contribution rate is 21%. Changing from one system to the other would mean higher retirement benefit costs.

- £ **Central Support**—There are considerable impacts from a systems and support perspective. The State Police will require incremental resources required to absorb ABC functions including information technology, communications, central records keeping, etc.

Cost Savings (*consolidations of offices, command staff, people, centralizing services, etc.*)

The implementation of this option would not be expected to generate any economic benefit for the Commonwealth. Essentially, the division as it currently stands would be transferred from one agency to another. In addition to the current costs of operation, the State Police would also be required to make significant investments in infrastructure already in place at the Department of Alcoholic Beverage Control. Ultimately, the cost of this option would increase annual operating expenses by at least \$4.1 million over current expense levels. In addition, there are significant one-time costs of approximately \$3.6 million. Listed below are the main reasons cost savings do not materialize.

- £ Consolidation of regional offices is not feasible because of space and functional limitations. State Police would be required to lease space to accommodate the large number of agents currently working out of their homes. Much of ABC's existing space is shared with store operations personnel or is co-located in a facility with a liquor store.
- £ The span of control for existing State Police command staffs are already at capacity. They cannot absorb the magnitude of agents expected to transfer under this option nor can they serve as a replacement for the institutional knowledge found in existing personnel.
- £ Since the Bureau would be transferred to State Police in its entirety, there would be no anticipated reductions in staff expected under this option. In the past twelve months, the Bureau of Law Enforcement has experienced double-digit turnover and currently has 20 vacancies in sworn positions. The State Police believes resources will be necessary to fill these positions in order to fulfill the tasks assigned. The planning committee does not anticipate significant reductions in central support staff for ABC. The allocation of resources to support enforcement operations is relatively small for functions such as purchasing, accounting and human resources.
- £ There are sizeable investments in training, technology, equipment and infrastructure required for ABC agents to meet with the existing standards for the State Police. This is not offset by significant corresponding reductions in on-going support costs at the Department of Alcoholic Beverage Control because many investments were made over significant periods of time and resources are shared with other functions of the agency.
- £ ABC operates on a different accounting basis than most state agencies. Like all agencies, ABC requires appropriation and cash to purchase assets such as cars,

equipment, and computers. However, as an Enterprise Fund agency, ABC's books are more like a private business operation where assets are capitalized over their useful life. Example: Assume ABC purchases of \$100,000 in automobiles in 2003. ABC would require \$100,000 in appropriation along with \$100,000 in cash. The 2003 books for ABC would show a charge of \$20,000 to expenses and \$80,000 in accumulated depreciation. For the following four years, \$20,000 would be charged to annual expenses with a corresponding reduction in the accumulated depreciation. Because significant assets would be transferred to State Police and would no longer be in ABC's possession, ABC would need to take a one-time charge to profits of approximately \$1 million to write-off accumulated depreciation for cars, equipment and systems.

- £ As a non-general fund agency, ABC must raise all funding through operations. Presently, direct revenues from license fees and penalties are not sufficient to cover the expenses of the Bureau of Law Enforcement, which necessitates a subsidy from liquor sales.
- £ A sizeable portion of existing ABC agents may not be eligible for employment with the State Police (either background investigation, physical standards, not graduating academy, etc.). The Department of Alcoholic Beverage Control would be responsible for any severance payments under the Work Force Transition Act of 1995. For every 10% of the current sworn work force that accepts severance, ABC would be responsible for one-time WTA and unemployment payments exceeding \$500,000.

Service Delivery

The implementation of this option involves functions of the Department of Alcoholic Beverage Control clearly outside the intent of the appropriations language, including tax collections, license issuance, education, security, and wholesale compliance. The breadth and depth of such a change places service delivery at significant risk. Listed below are some of the ramifications of this option:

- £ The Department of ABC would not be able to issue licenses and the Department of State Police would manage all historical records related to license activity.
- £ ABC would lose the ability to monitor the wholesale transactions necessary to verify tax collections and franchise agreements.
- £ ABC would not be responsible for the security of its own facilities including the liquor warehouse and all ABC stores.
- £ There are significant implementation issues that impact service delivery. During the 12-16 month training academy window, there would be a significant reduction in available labor. During this transition, the time for processing license application investigations would be expected to increase. This also has tax implications (license revenues, sales tax, business taxes) since business openings would be delayed.
- £ The mission of the State Police would expand significantly beyond its current scope. In addition to the licensing, tax collection and other responsibilities, the majority of ABC agent arrests are for misdemeanor or civil violations (current BCI policy focuses on felony cases).

Legislative Changes

Significant changes to Title 4.1 of the Code of Virginia, Virginia Administrative Code as well as the Appropriations Act would be required for implementation. Virtually every section of Title 4.1 dealing with licensing, inspections, product approval, and tax collection would require amendment to transfer functions to the State Police. Section 52-8 should be amended under this option to add alcohol law enforcement to the responsibilities of the State Police Bureau of Criminal Investigation.

The Appropriations Act would also require modification. While ABC's appropriation cannot be transferred directly, a General Fund appropriation increase for the State Police would be required along with language that would transfer additional ABC profits to General Fund (similar to the transfer supporting substance abuse treatment at the Department of Mental Health).

Conclusions

The planning committee believes that such an option is clearly outside the original intent of the language. Clearly, the intent was to look for cost saving opportunities, not turn the Department of State Police into a licensing and tax collection authority. The planning committee believes the implementation of this option would subjugate the current mission of the State Police and introduce inefficiencies into the licensing and regulation of alcoholic beverage wholesalers and retailers.

The ability to hold establishments accountable for violations would depend solely upon the shared responsibility of the two agencies and factors such as prioritization of job functions, perception of importance, resource allocation and coordinated processes between the Departments of State Police and Alcoholic Beverage Control. Implementing this option would be a high-risk venture with a highly uncertain outcome from cost and service perspectives.

Option Two: Merging Only Sworn Personnel

Under this scenario, ABC would transfer 135 sworn positions and the 10 associated support personnel in ABC regional offices. Functions such as License Records Management, Education, Tax Management and Security would remain with ABC. The Department of ABC would retain its ability to issue licenses but all investigative, regulatory and enforcement functions would transfer to State Police. In addition, the State Police would assume all responsibility for compliance checks for underage alcohol and tobacco sales.

From an implementation standpoint, there is very little difference between Option I and II. Both require significant modification to the mission of both agencies. With few

exceptions, virtually all of the critical assumptions and impacts of Option I are found in Option II.

Cost Savings (*consolidations of offices, command staff, people, centralizing services, etc.*)

Much like Option I, the implementation of this option would not be expected to generate any tangible cost savings. Offices still do not lend themselves to consolidation nor will reductions in command staff or field agents occur. Once again, the option merely transfers expenditures from one agency to another while requiring the State Police to duplicate the investments in infrastructure made over many years at the Department of Alcoholic Beverage Control. The cost of implementing Option II would be expected to approach \$2.9 million in annual incremental costs for such items as office space, support positions, etc. plus one-time expenditures of \$3.2 million for payments for training, equipment, WTA payments, etc.

Service Delivery

In addition to the issues listed in Option I, the potential for inefficient business processes increases with this option, particularly where licensing is concerned. In this area, ABC and State Police would share responsibility for processing applications with neither being fully accountable for efficiency and effectiveness.

Legislative Changes

This option would require fewer legislative changes than Option I. Sections 4.1-103.01 and 4.1-204 would require amendment to authorize State Police access to records of tobacco wholesalers and inspection of alcohol licensed establishments. Section 52-8 should be amended under this option to add alcohol law enforcement to the responsibilities of the State Police Bureau of Criminal Investigation. Significant changes to the Appropriations Act would be required for implementation. The required amendments to the Code are included in Appendix D.

Conclusions

Again, the ability to hold establishments accountable for violations would depend solely upon the shared responsibility of the two agencies and factors such as prioritization of job functions, perception of importance, resource allocation and coordinated processes between the Departments of State Police and Alcoholic Beverage Control. Reductions in costs are not expected to materialize in this scenario nor would there be significant consolidations of offices or command staffs.

Option Three: Limited Merging of Portions of Sworn Personnel

Under this scenario, a portion of the sworn officers would be transferred to State Police to do “enforcement” activities. The remaining officers would stay with the Department of Alcoholic Beverage Control to do the “administrative and regulatory” assignments.

Listed below are the critical assumptions of this option:

- £ · **Structure**—The functions, duties and responsibilities of the sworn officers will be assimilated into the existing command structure Bureau of Criminal Investigation. A duplicative structure within the Department of Alcoholic Beverage Control will be necessary to manage the remaining work force.
- £ · **Classification/Compensation**—The transferred personnel would be classified as State Police Special Agents with supervisors being equivalent to First Sergeants, Lieutenants or Captains, depending on their current positions within the Department of Alcoholic Beverage Control. Only those employees below the minimum in their respective bands will be afforded raises. All others would be transferred at their current salaries. Increasing the size of the State Police work force has other compensation impacts related to the number of agents afforded career progression adjustments. ABC agents would transfer in with no in-band seniority, which places them at the bottom of the career progression track.
- £ · **Pre-employment Requirements**—All personnel being received must meet the employment prerequisites of the Virginia Department of State Police including background checks, physical standards and graduation from the training academy.
- £ · **Training**—To complete the transition training and to fully integrate the 65 sworn positions into the Virginia Department of State Police will involve an extended period of time. Transitional training would require 12 to 15 weeks, enabling the State Police to assign the ABC sworn employees to other divisions within the Bureau of Criminal Investigation. Because of the magnitude of the training requirements, between 6 and 8 months of time would be required to complete the training.
- £ · **Equipment**—The majority of ABC's special agent equipment is compatible with State Police requirements. The main difference is in firearms. ABC currently uses H & K .40 caliber pistols and the State Police uses a SigArms .357 caliber. Replacement of all ABC weapons will be required (assumes trade-in value) which necessitates additional training and qualifying. In addition, State Police agents are currently supplied with the M-4 Patrol rifle not currently available to ABC agents.
- £ · **Office Space**—Existing facilities for the State Police will not be sufficient to house the additional agents. Additional leased space will be necessary costing approximately \$250,000 annually.
- £ · **Retirement Benefits (SPORS vs. VALORS)**—The agency contribution for SPORS (State Police) is 30% while the VALORS (ABC) contribution rate is 21%. Changing from one system to the other would mean higher retirement benefit costs.

- £ **Central Support**—There are considerable impacts from a systems and support perspective. The State Police will require incremental resources required to absorb ABC functions including information technology, communications, central records keeping, etc.

Cost Savings (*consolidations of offices, command staff, people, centralizing services, etc.*)

While there can be considerable debate concerning the definitions of enforcement and administrative work, there was consensus among the planning committee that splitting the functions is counter productive. There was universal agreement that economies of scale are sacrificed by such a move because of the synergisms inherent with alcoholic beverage regulation and enforcement.

Under this scenario, resources for the State Police and ABC would be used to cover the same geographic territory. With the functions split, individuals would be assigned to territories twice as large containing double the number of residents and establishments. Representatives from ABC would be conducting license investigations, inspections, training sessions, etc. and State Police would be conducting under-age compliance checks, criminal investigations and other enforcement-related activities.

Given these assumptions, it is logical to assume that costs would increase under this scenario. There would be no consolidation of office locations or command staff and costs such as personnel, vehicle maintenance, fuel, etc. are estimated to rise. The planning committee estimates that this option would increase the cost of alcoholic

beverage law enforcement by approximately \$1.9 million annually with one-time implementation costs of an additional \$1.3 million. Efforts would be highly duplicative, inefficient and contrary to the intent of the language.

Per Agent Statistics under 50/50 Split	
Area (sq. miles)	801
Population	121,297
Licensees	248
Applications	257
Inspections	200
Licensee Training	114
Violations/Warnings/Orders	42
Observations	462
Criminal Investigations	275
UAB - Alcohol	103
UAB - Tobacco	74
Arrests	48
Arrest Assists	19

Service Impacts

One of the primary benefits of the current structure is the use the community-policing concept. ABC special agents are assigned to small geographic territories in the communities in which they live to promote familiarity with the needs of the locality. Under this model, the territory would double in size, which requires substantially more travel time between establishments (less time available for either administrative or enforcement activities) and the synergisms that come from multiple roles being served by one contact will be lost. As a result, service levels for such things as application

processing, inspections, licensee training as well as the resources committed to providing public safety will decline.

One of the critical elements of this option is the creation of dual points of contact for the public and regulated community. Under this scenario, the risk of providing conflicting messages and incorrect information increases dramatically. Much like the situation in the Commonwealth of Pennsylvania, the regulated community will not know whose interpretation of the rules to follow.

Legislative Changes

This option would not require any changes to the Code, although Section 52-8 might be amended to add alcohol-related misdemeanors to the investigations required to be undertaken by the State Police Bureau of Criminal Investigation. Significant changes to the Appropriations Act would be required for implementation.

Conclusions

Option III, much like the prior methods, does not achieve cost savings, consolidations of regional offices or command staffs. An argument could be made that this option does just the opposite. It creates duplicate command staffs and offices and creates a dual point of contact for the public and regulated community.

Conclusions

Conclusions

The planning committee focused its attention on identifying options with the greatest potential for consolidating offices, eliminating command staff and personnel, and reducing the cost of operation. As the various options were developed; the committee evaluated the merits of various operating structures; employment issues such as classification, benefits, pre-employment standards, and training; equipment; office space; and other issues with a financial bearing on the plan. In addition, central to the evaluation of each potential plan was the assumption that implementation would “do no harm” to existing levels of service and public safety.

The committee reviewed methods for alcohol law enforcement found in other states and considered input from the regulated community. The committee also reviewed the recommendations of Governor Warner’s Task Force to Combat Driving under the Influence of Drugs and Alcohol issued on August 27, 2003.

The method used by the Commonwealth for alcoholic beverage regulation and enforcement is consistent with methods found in other states. In almost every instance, and particularly in states with significant numbers of licensed establishments, alcoholic beverage regulation and enforcement are a combined entity.

From a service perspective, the Department of Alcoholic Beverage Control receives high marks from the regulated community, community groups, and local law enforcement for efficient service and equity (VCU Survey Research Lab/ABC Spring 2002). In addition, significant strides have been made in reducing youth access to alcohol and tobacco products despite significant reductions in funding and high levels of agent turnover. The Governor’s Task Force to Combat Driving Under the Influence of Drugs and Alcohol recommended that:

The Department of Alcoholic Beverage Control should retain the responsibility for wholesale distribution and retail sale of distilled spirits, enforcement of laws related to the sale and distribution of alcohol, licensing authority, and training for servers and retailers.

The planning committee finds no economic benefit to any of the options for merging the Bureau of Law Enforcement within the Department of State Police. While each option *could* be implemented, each would increase the on-going annual expenditures for alcohol law enforcement in the Commonwealth by \$1.9 million to \$4.1 million depending on the option. These do not take into account significant one-time implementation costs ranging from \$1.3 to \$3.6 million (depending on the option.)

The economic issue aside, the planning team was not able to identify any significant improvements in service or public safety resulting from the merger. Proceeding with such a merger would place at risk the essential services provided by both agencies. Depending on the option chosen, the mission of the State Police could be significantly expanded to

administrative functions such as issuing licenses, collecting taxes and processing administrative law cases. Such expansion is not consistent with the law enforcement mission of the State Police and likely to place at risk existing priorities.

Appendix A

Recommendations from the Governor's Task Force To Combat Driving Under the Influence of Drugs and Alcohol

**TO THE HONORABLE
MARK R. WARNER
GOVERNOR OF VIRGINIA**

**FROM THE GOVERNOR'S TASK FORCE
TO COMBAT DRIVING UNDER THE INFLUENCE
OF DRUGS AND ALCOHOL**

Report and Recommendations

July 2003

RECOMMENDATIONS FOR ACTION

The following recommendations are intended to address the high priority issues previously discussed. Recommendations have been organized in seven categories based on subject matter. Short-term recommendations, intended for implementation between 2003 and 2005, as well as longer-term recommendations, for implementation between 2005 and 2008, are provided. The legislative actions listed below will be considered for introduction during the 2004 General Assembly session.

LEGISLATIVE ACTIONS

1. Eliminate the requirement for a magistrate to issue a warning upon breath test refusal. Nominal administrative costs are anticipated. For DUI offenses refer to Code Section, §18.2-268.3. For BUI offense refer to Code Section, §29.1-738.2 which requires procedures from §18.2-268.1 through §18.2-268.11.
2. Reinstate a form of the Habitual Offender Act to create administrative procedures to deter repeat offenses. Projected total cost for the first two years of implementation is \$315,000. Refer to Code Section §46.2-355.1, §46.2-356, §46.2-357 and §46.2-360. The Habitual Offender Act was first codified under §46.2-351 and §46.2-354.
3. Lower the statutory definition of high blood alcohol concentration (BAC) level from .20 to .15 to allow for increased sanctions and more intensive treatment interventions. Nominal administrative costs are anticipated. Refer to Code Section §18.2-270 for DUI and §29.1-738 for BUI.
4. Increase penalties for persons arrested while driving with a restricted license as a result of a previous DUI conviction. Nominal administrative costs are anticipated. Refer to Code Section §18.2-272 for DUI. No increased penalty currently exists for BUI offenses.
5. Make an open container of alcohol in a vehicle a factor in determining probable cause to test the driver for DUI. Nominal administrative costs are anticipated. Refer to Code Section §18.2-323.1, which allows for rebuttable presumption of violation of drinking while driving, but not DUI. Drinking while boating is legal so there is no existing Code Section to reference.

ADMINISTRATIVE ACTIONS

6. The Governor's Office should continue to provide highly visible leadership on and support of DUI and BUI initiatives through the provision of annual progress reports, convening future Task Forces, or additional actions.

7. The Secretaries of Transportation and Public Safety should periodically brief key General Assembly legislative committees on DUI and BUI progress and problems.
8. The Secretary of Public Safety should continue to support and encourage the use of technological tools (e.g. drivers license scanners; laptop computers in police cars; automated crash reporting forms; etc.), as funds become available, to help law enforcement personnel, retailers, servers and others more easily enforce DUI and ABC laws. Appropriate funds should be sought to support this initiative
9. The Secretary of Public Safety should convene an advisory committee, including state police, chiefs of police, sheriffs, court personnel and others, to examine and make recommendations concerning DUI and DUID (driving under the influence of drugs) training and implementation of training standards, to include Standard Field Sobriety Test (SFST) methods, no later than 2005. Nominal administrative costs are anticipated.
10. The Department of Motor Vehicles should provide an annual report card on the status of Task Force recommendations to the Governor's Office, General Assembly, interested parties and partners to document progress, compare Virginia's progress to national benchmarks and best practices, and identify priorities for further action. Nominal administrative costs are anticipated.
11. The Department of Motor Vehicles should implement a more prominent visual cue on driver's licenses for individuals under the age of 21 to make it easier for alcohol retailers and servers to quickly identify underage individuals, no later than 2005. Nominal administrative costs are anticipated.
12. The Department of Motor Vehicles should create a records management system to provide an administrative failsafe process to indicate a third DUI conviction regardless of the specific court ruling on the nature of the offense, no later than 2005. DMV would require administrative authority via a change to the Code of Virginia to impose sanctions based on the number of DUI convictions. This would eliminate avoidance of penalties through the use of multiple 1st and 2nd offenses. Projected cost for the first year is \$44,000 and \$20,000 for operations each successive year.
13. The Department of Alcoholic Beverage Control should retain the responsibility for wholesale distribution and retail sale of distilled spirits, enforcement of laws related to the sale and distribution of alcohol, licensing authority, and training for servers and retailers. No additional costs are anticipated.
14. The use of sobriety checkpoints should be expanded across the Commonwealth. The Virginia Association of Chiefs of Police and the Virginia Sheriffs Association, with input from the Department of Criminal Justice

Services and others, should create model sobriety checkpoint standards and guidelines and encourage adoption and implementation by all local law enforcement agencies, no later than 2005. Nominal administrative costs are anticipated.

15. The Commission on Virginia Alcohol Safety Action Programs (VASAP) should publicize the findings of the current study of program effectiveness being conducted by the National Center for State Courts and brief key stakeholders within the DUI control system, no later than 2005. No additional costs are anticipated.

COURT-RELATED ACTIONS

16. The Commission on VASAP should work with the Supreme Court and individual General District Court judges to encourage the creation of specially designated DUI Courts or Dockets, no later than 2008. Projected costs for each court include an additional 78 hours of judicial time per 100 DUI convictions annually; 91 hours of additional court clerk time per 100 DUI convictions annually; and one additional ASAP community corrections case manager per 200 DUI convictions at an average cost of \$46,000 annually.
17. The Commission on VASAP should partner with interested localities and General District Court Judges to pilot a DUI work release jail program that integrates education and treatment for repeat and high BAC offenders, no later than 2008. Projected costs for a program are \$1,000,000 a year. Similar programs operate on a cost-neutral basis, recouping their expenses through payment of fees and third-party insurance reimbursements.
18. The Commission on VASAP should encourage local ASAP offices to use victim impact panels, no later than 2008. Panels would be composed of volunteers who are willing to discuss with offenders the direct impact that impaired driving and boating had on their lives. Nominal administrative costs are anticipated.
19. The Commission on VASAP should encourage the Supreme Court and General District Courts to implement a system of postcard and telephone prompts; staffed by community volunteers, to increase the percentage of court appearances on DUI dockets, no later than 2008. Nominal administrative costs are anticipated.

PUBLIC AWARENESS AND EDUCATION ACTIONS

20. The Department of Motor Vehicles and the Department of Game and Inland Fisheries should continue to place a priority on supporting public awareness and education campaigns to deter DUI and BUI. Priority should be given to campaigns that target youth and other at-risk populations and campaigns that support implementation of sobriety checkpoints. The agencies should work

together to seek resources to expand these efforts. No additional costs are anticipated.

- 21 The Department of Alcoholic Beverage Control should expand efforts to create and support community and college coalitions designed to prevent underage and excessive drinking, no later than 2008. Projected costs are \$200,000 annually.

The Department of Education should continue to integrate and expand research-based substance abuse prevention programs that meet Standards of Learning criteria in all primary and secondary schools, no later than 2008. No additional costs are anticipated.

SUBSTANCE ABUSE PREVENTION, INTERVENTION AND TREATMENT ACTIONS

The Commission on VASAP should continue to serve as the lead organization for DUI and BUI related substance abuse prevention, intervention, and treatment programs and work closely with the Governor's Office for Substance Abuse Prevention (GOSAP) and the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) to review and modify programs and services. No additional costs are anticipated.

24. The Governor's Office for Substance Abuse Prevention should continue to develop and help implement a plan for the coordination of prevention programs and services provided through state agencies. This plan should establish statewide goals and priorities for DUI and BUI substance abuse prevention efforts as well as identify best practices, no later than 2005. Nominal administrative costs are anticipated.
25. The Substance Abuse Services Council, in partnership with the Virginia Alcohol Safety Action Program, the Department of Mental Health, Mental Retardation and Substance Abuse Services, and other partners, should develop a plan that coordinates substance abuse intervention and treatment programs and services, no later than 2005. Nominal administrative costs are anticipated.

In particular, this plan should address and recommend ways to:

Establish statewide goals and priorities for substance abuse intervention and treatment efforts, placing a high priority on hard core drunk drivers, and repeat offenders;

Identify and promote a standardized assessment tool, such as the Addiction Severity Index (ASI) or Substance Abuse Subtle Screening Inventory (SASSI), that can be used by all service providers to help match individuals to appropriate intervention and treatment programs;

Establish uniform, statewide substance abuse standards and treatment definitions for use by service providers to improve understanding and implementation of treatment programs and evaluations of effectiveness;

Identify programs and approaches that have documented success;

Collect and track data collected from administration of standardized assessments to identify characteristics of at-risk populations in order to enhance the design of effective prevention, intervention and treatment programs.

26. The Substance Abuse Services Council should develop a longer-term plan designed to increase the availability of DUI and BUI intervention and treatment services and identify successful programs and approaches, no later than 2008. Nominal administrative costs are anticipated.

In particular, this plan should:

Identify resources and document lead organizations for program implementation;

Recommend methods to increase the availability and intensity of effective intervention and treatment programs to expand the range of available options for judges;

Recommend a coordinated system to conduct or catalog substance abuse needs assessments, by locality, for youth and at-risk populations to document problems, measure progress and guide resource allocation decision-making;

Identify prevention, intervention and treatment approaches and programs that have documented success.

TRAINING ACTIONS

27. All Standard Field Sobriety Test (SFST) training provided to law enforcement personnel in Virginia should meet the guidelines established by the National Highway Traffic Safety Administration and Virginia Department of Criminal Justice Services, no later than 2005. No additional costs are anticipated.
28. The Department of Motor Vehicles, in partnership with the Commission on VASAP, the Commonwealth's Attorneys' Services Council and the Supreme Court, should host a conference for judges, prosecutors and law enforcement personnel to increase their awareness of DUI and BUI issues, discuss implementation of best practices, discuss the effective use of third offense felony laws, discuss issues concerning mandated sentencing and penalties,

and explore options available for intervention and treatment, no later than 2005. Estimated costs are \$50,000.

29. The Department of Alcoholic Beverage Control should partner with the Virginia Hospitality and Travel Association, and other state agencies, to develop and implement a statewide alcohol server education program to promote responsible alcohol service and consumption, no later than 2008. Projected costs are \$400,000 annually.

The Department of Alcoholic Beverage Control should expand enforcement, training and education programs for alcohol retailers to help prevent underage purchases of alcohol, no later than 2008. Projected costs are \$400,000 annually.

FURTHER STUDIES

The Secretary of Public Safety should explore options for streamlining the State Code to reduce complexity of enforcement and prosecution. Input should be gathered from law enforcement personnel, prosecutors, the Commission on VASAP, the National Center for State Courts, Supreme Court of Virginia, Department of Motor Vehicles and others, to review DUI and BUI statutes and formulate specific recommendations. Nominal administrative costs are anticipated.

The Secretary of Transportation should request the Virginia Transportation Research Council conduct the following:

- A study to determine the need for making standards, procedures and penalties uniform for driving under the influence (DUI) and boating under the influence (BUI), no later than 2005. Projected cost for completion is \$20,000.
- A study of the benefits of mandating all drivers and boat operators involved in fatal crashes be tested for alcohol, no later than 2005. Projected cost for completion is 15,000.

A study on the collection, use and feasibility of third-party reimbursement for blood tests for BAC level for drivers admitted to hospitals, no later than 2005. Projected cost for completion is \$15,000.

- A study and recommended methods for creating a standardized system for DUI-related record keeping across state agencies that would coordinate and integrate databases and make information more readily available, no later than 2005. Projected cost for completion is \$35,000.

A study that gathers data to evaluate the effectiveness of Virginia's open container law, compare this data to national benchmarks, and make recommendations for changes in the law, if needed, no later than 2005. Projected cost for completion is \$20,000.

A study to identify recommend methods for creating regular, periodic reports to law enforcement and court personnel regarding vehicle impoundments to help local officials identify individuals who have committed previous serious offenses, no later than 2008. Projected cost for completion is \$20,000.

A study to determine the feasibility and impact of creating a dedicated funding stream (supported through fines and user fees), to support local DUI enforcement programs, public education campaigns and substance abuse prevention, intervention and treatment services, no later than 2008. Projected cost for completion is \$30,000.

33. The National Center for State Courts, with input from the Supreme Court, General District Court Clerks, and the Committee on District Courts, should study the feasibility of instituting a conformance bond system that would provide a financial incentive to offenders to comply with court orders by returning a portion of the bond upon successful completion of all requirements, no later than 2008. Projected cost for completion is \$50,000 - \$75,000.

Attachment 1

GOVERNOR WARNER'S TASK FORCE TO COMBAT DRIVING UNDER THE INFLUENCE OF ALCOHOL AND DRUGS

Membership List

Co-Chairs

The Honorable Whittington W. Clement
Secretary of Transportation

The Honorable John W. Marshall
Secretary of Public Safety

Judicial Members

The Honorable Harry L. Carrico
Former Chief Justice
Supreme Court of Virginia

Senate Members

Senator Janet D. Howell
Reston

Senator Henry L. Marsh, III
Richmond

Senator William C. Mims
Leesburg

Senator Thomas K. Norment, Jr.
Williamsburg

Senator Phillip P. Puckett
Tazewell County

Senator W. Roscoe Reynolds
Henry County

Senator Kenneth "Ken" W. Stolle
Virginia Beach

House Members

Delegate James F. Almand
Arlington County

Delegate Charles "Bill" Carrico
Independence

Delegate Kenneth "Ken" R. Melvin
Portsmouth

Delegate Brian J. Moran
Alexandria

Delegate Harry R. Purkey
Virginia Beach

Delegate Beverly J. Sherwood
Winchester

Other Members

Mahlon "Lon" G. Anderson
Director of Public Affairs
AAA Mid-Atlantic

Charles B. Arrington, Jr.
Executive Vice-President
Virginia Bar Association

Jessica Bland
Youth Coordinator
Youth of Virginia Speak Out (YOVASO)

Nick Champeau
Chairman
Washington Regional Alcohol Program

Vernon Danielsen
Board Chairman
Alcohol Beverage Control

Chief Charlie T. Deane
Immediate Past President
Virginia Association of Chiefs of Police

Dr. Jo Lynne DeMary
Superintendent of Public Instruction
Virginia Department of Education

Lillian DeVenny
President
Virginians Opposing Drunk Driving (VODD)

Marilyn Harris
Assistant Secretary of Public Safety
Director of Governor's Office on Substance
Abuse Prevention (GOSAP)

H. Lane Kneedler
Attorney at Law
National Commission Against Drunk Driving
(VA Representative)

J. Christopher LaGow,
Legislative Counsel for National Safety
Council
Nationwide Insurance, Liberty Mutual Group

Peter M. Marone
Central Lab Director
Department of Criminal Justice Services

Colonel Gerald W. Massengill
Superintendent
Virginia State Police

William "Bill" T. McCollum
Executive Director
Commission on VASAP

Marcy J. McGuigan
President
Virginia Beer Wholesalers Association

W. Neal Menefee
Chairman
Board of Directors for DriveSmart Virginia

Ashton D. Mitchell, III
Executive Vice President/CEO
Virginia Hospitality & Travel Association

John F. Pinckney
Chairman
State of Virginia MADD

Asbury "Ab" W. Quillian
Former Commissioner
Department of Motor Vehicles

John Rainey, Regional Director
State Government Affairs
Philip Morris Management Corporation

Dr. James S. Reinhard
Commissioner
Department of Mental Health, Mental
Retardation & Substance Abuse Services

Sheriff B. J. Roberts,
Immediate Past President
Virginia Sheriffs' Association

Barry Seeskin, Director
Governmental Affairs - Research and
Planning
Anheuser-Busch Companies

Charles S. Sharp,
President
Virginia Association of Commonwealth
Attorneys

Stan Tretiak
Public Relations Committee
State Government Affairs Councils
Coors Brewing Co.

William L. Woodfin, Jr.
Director
Department of Game & Inland Fisheries

Additional Committee Members

GENERAL DETERRENCE COMMITTEE

Kurt Erickson

President and CEO

Washington Regional Alcohol Program (WRAP)

SPECIFIC DETERRENCE COMMITTEE

Jim Cervera

Deputy Chief of Police

Virginia Beach Police Department

Donald Cullen

Specific Deterrence Subcommittee

Director, Special Projects

National Center for State Courts

Lloyd Young, Jr.

Executive Director

Chesapeake Bay ASAP

PREVENTION, INTERVENTION AND TREATMENT COMMITTEE

Marleen Durfee

Resident, Midlothian, Virginia

Mellie Randall

Manager, Community Planning and Program Standards

Office of Substance Abuse Services

Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services

Vanessa Wigand

Specialist, Health, Physical Education and Driver Education

Virginia Department of Education

Assistance was also provided by:

Thomas Hannett, Public Safety Intern

Secretary of Public Safety

Appendix B

Executive Summary of the Senate Document #27 Overlapping Police Powers in State Agencies

**REPORT OF THE SECRETARY OF
PUBLIC SAFETY ON**

**OVERLAPPING POLICE POWERS
IN STATE AGENCIES**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 27

**COMMONWEALTH OF VIRGINIA
RICHMOND
1996**

III. Executive Summary

Over the past few years there has been a continuing interest in studying law enforcement agencies in order to enhance the delivery of criminal justice services throughout the Commonwealth. These studies resulted from concerns that an increasing number of agencies have requested full law enforcement powers and that an unnecessary duplication of effort exists, which may, in fact, jeopardize security and the ultimate success of law enforcement operations, especially those of a covert nature.

Senate Joint Resolution 340, approved in February 1995, specifically directed the Secretary of Public Safety "to conduct an analysis of the overlapping of agencies with statewide police powers in the Commonwealth ... [and] study the need, feasibility, and advisability of placing all such police powers into the Department of State Police under the administrative control of the Superintendent of State Police." The state agencies specifically named in the legislation as having overlapping statewide police powers were the Department of State Police, the Department of Alcoholic Beverage Control, the Virginia Marine Patrol, the Department of Game and Inland Fisheries, the State Lottery Department, and the Department of Motor Vehicles.

Meetings were held with the various agencies named in the legislation and Virginia State Crime Commission staff to gather information and gain each agency's perspective on the benefits and impediments associated with such a consolidation. In addition, an extensive data collection effort was undertaken to provide sufficient information to objectively assess the feasibility of consolidation and provide an estimate of the financial ramifications.

The Conceptual Basis for Consolidation:

The rationale most frequently advanced for consolidating separate units within an organization, or for merging independent organizations, is commonality of mission, goals, and objectives. It is assumed that this approach will eliminate any duplication of effort, increase efficiency, and reduce costs. Whether actual economies of scale will be realized is largely dependent upon the specific entities that are merged, the method of consolidation, the resultant organizational structure, and administrative issues.

In this study, the consolidation involves agencies whose overall missions are focused on the specific, largely unique roles they play in state government. The agencies are considered to be specialized in the functions they perform and law enforcement is but one of many activities each agency performs to achieve its overall mission. Further, law enforcement efforts are typically restricted to the agency's respective specialization, either through statute or administratively. The Department of State Police is the only agency whose primary mission is to provide general law enforcement services throughout the Commonwealth.

Thus, the major opposition to consolidation centers on a presumed change in focus inherent in consolidating specialized enforcement activities into a larger agency tasked with general enforcement responsibilities. Given existing human resource limitations within state government, it is assumed that specialized efforts would be secondary to general enforcement and/or existing enforcement priorities within the acquiring organization (the Department of State Police).

The advantages of consolidation include the elimination of duplication of services, if existent; a reduction in territorial issues and enhanced coordination and cooperation among previously distinct factions; managerial and administrative savings, if attainable; the standardization of training and equipment for all law enforcement officers involved; shared facilities and communications systems; and standard policies and operating procedures.

Regardless of personal preferences or beliefs, there is no one right or wrong configuration that has proven to be most effective. In fact, different degrees of consolidation and different organizational structures appear to be equally effective, depending upon the specific circumstances. Further, it would be impossible to determine with any degree of certainty how effective a consolidation of law enforcement functions would be. One can make a convincing case for many approaches, and in the end, any number of configurations can be effective, if a fundamentally sound approach to the transition is developed and the affected parties are supportive of the endeavor.

The Feasibility of Consolidation:

A number of issues are raised when considering the feasibility of consolidating law enforcement functions and the possible impact on both the acquiring agency and the entities that are absorbed. It is anticipated that a significant impact would be experienced by the agency that acquires these entities, especially in terms of the additional resources that would be required to administratively support the functions and personnel acquired. More importantly, a number of issues must be considered and decisions made to ensure that additional responsibilities are integrated into existing operations with minimal disruption of services. The major decisions relate to the specific functions that will be transferred; the existing personnel that will be absorbed; where functions and personnel will be placed, organizationally and geographically; training and equipment issues; the accessibility of required computer systems; and many personnel issues. All of these factors are interrelated and personnel issues (i.e., pay grades, retirement benefits, promotional criteria, etc.) tend to be foremost in the minds of employees that are absorbed by another agency, as well as the existing employees of the acquiring agency. How these matters are dealt with can have a tremendous impact on morale and, in fact, determine the overall success of consolidation.

For those reasons, information was obtained from the agencies included in this study concerning job classifications and pay grades, specific job duties and supervisory/management responsibilities, administrative staff, equipment needs, facilities, computer applications, training programs, and funding sources. This information was reviewed to determine the similarity that exists among the agencies involved and the potential impact of consolidation on the Department of State Police. Based on that assessment, a preliminary estimate of the additional costs that might be incurred as a result of consolidation was determined.

Personnel

There are 377 state employees that were included in this study as subject to transfer due to a consolidation of law enforcement efforts. Classification and salary issues are a major concern, both in terms of funding and morale. Based upon the position descriptions and classification information provided by each agency, the pay grades assigned to various sworn positions within the five specialized agencies tended to be lower than those assigned to State Police sworn classifications. The only exception to this is the Department of Alcoholic Beverage Control (ABC), which is in the process of regrading their sworn positions. If the regrade proposal is approved, ABC's pay grades will be commensurate with State Police pay grades. If the positions transferred from other agencies are upgraded to similar State Police classifications, the additional salary and fringe benefits cost (excluding retirement costs) is estimated to be \$1,082,814. (The appropriateness of existing classifications was not examined in this study, nor was a job task analysis performed.)

State Police Retirement System

The State Police Retirement System (SPORS) provides increased retirement benefits, at younger retirement ages, with lower required years of service, to State Police law enforcement officers. The system was developed due to concerns about reduced officer effectiveness related to age and exposure to hazardous duty. Over the years, a number of attempts have been made to incorporate sworn officers from other state agencies into the system; however, the agencies included in this study are not currently covered by SPORS. If transferred employees were fully integrated into the existing State Police structure, positions would be upgraded to be consistent with State Police classifications, and the additional retirement cost is estimated to be \$569,587. It is likely that the absorbed personnel would make every effort to be included in SPORS, regardless of the specialized law enforcement functions they may perform.

Funding

To effect a consolidation, the appropriations currently provided for law enforcement purposes must be transferred to the State Police. It is anticipated that additional funds, above and beyond those currently appropriated to the respective agencies for law enforcement purposes, would be required to provide adequate funding for the consolidation. In addition, a legislative amendment to Section 4.1-117 of the Code would be required concerning the disposition of ABC profits to localities. While ABC's revenues would remain fairly constant, their profits would increase due to reduced operating expenses. As provided by statute, two-thirds of these profits would be distributed to localities. An amendment specifying the reduction of State Police expenses for ABC enforcement, prior to the distribution of ABC profits, would be required.

Facilities

All of the agencies studied have a number of leased and/or state-owned facilities located throughout the Commonwealth; however, limited information was provided concerning actual space requirements for enforcement personnel. The Department of State Police does not have adequate facilities for existing personnel; therefore, arrangements would have to be made to share space in state-owned facilities and to transfer existing leases, and funds, to the State Police. This is an area that could provide economies to the state regardless of the consolidation issue.

Equipment

All of the agencies studied, excluding the Department of the Lottery, issue similar equipment and supplies to their employees. There would be an additional cost of \$107,266 for equipping the Department of the Lottery employees with standard State Police equipment and supplies and for providing 9 mm weapons to sworn employees who are not currently issued such weapons.

It is assumed that the vehicles assigned to the affected employees would be transferred to the State Police, as would any funds designated for pool vehicles. It is possible that the vehicles transferred would not be appropriate for the job duties assigned to employees after the transfer, especially if additional options were provided to allow employees to enter existing State Police classifications, such as the trooper classification. In that case, there would be an additional vehicle expense, the extent of which cannot be determined.

Training

The agencies involved in this study provide varying degrees of training to their employees. Most employees are DCJS-certified; however, none of the agencies provide a basic training program as comprehensive as that provided by the State Police, at least in terms of the amount of training required to be a State Police trooper. The Department of State Police has historically required all troopers to graduate from the State Police Academy as a condition of employment. This is a practice that was continued when State Corporation Commission employees were transferred to the State Police, and it is assumed that this policy would be applied to employees joining the State Police through consolidation.

The impact of a consolidation of this magnitude on the State Police Training Division would be significant. It is impossible to determine the specific training that would be required without knowing the particular job tasks that employees would perform and how they would be incorporated into the State Police. At a minimum, a transitional training program would have to be provided to all DCJS-certified officers. Training sessions would be scheduled so that enforcement efforts could continue concurrently with the training program. In addition, in-service training programs concentrated on the specialized areas of enforcement transferred to the State Police would have to be developed and provided biennially to meet DCJS recertification requirements.

Given the magnitude of the training involved, and the need to use field personnel, this could have a negative impact on State Police operations and would significantly increase the workload of existing State Police Academy staff. It is estimated that a total of 7714 man-hours of instruction would be required to provide minimal transition training.

Data Processing

The agencies involved in this study all have a number of computer systems in place that are utilized for enforcement purposes. A number of these systems are also used by non-enforcement personnel for other purposes. Each agency is unique in the systems they maintain, and there are a number of methods which could be used to provide the necessary access to systems. If all five agencies were consolidated with the State Police, there would be a significant impact on State Police systems engineering and systems development, which would require additional data processing personnel. If existing systems were converted to operate in the State Police environment, a detailed analysis of each application would be required. Based on the limited information provided, it is estimated that five additional State Police positions would be required for development and support of these systems. It is anticipated that additional equipment costs would also be incurred; however, further analysis would be required to determine specific needs.

Administrative Staff

If the law enforcement functions discussed in this report are transferred to DSP, a minimum of 377 positions would be transferred to perform those functions, which equates to a 16 percent increase in the total DSP employment level. The impact on any one person may not be significant; however, impacts would be felt throughout the organization. Conversely, depending upon the size of a given agency, the number of employees transferred from an agency, and their relative proportion of that agency, there may be little or no cost savings that accrue to the agency that loses a portion of its staff.

If a consolidation occurs, additional positions, above and beyond those positions performing law enforcement functions, or directly supporting law enforcement functions, should be included in the transfer. If all 377 employees are transferred to the State Police, it is estimated that a minimum of five additional positions would be required for administrative support functions in the Property and Finance Division. The estimated cost of these additional positions is \$153,451. Additional positions would also be required for data processing and personnel functions. Most agencies included in the study were unable to determine the number of positions that provide indirect support to their law enforcement staff, however, the State Police should not be expected to increase its employment level by 16 percent without some increase in administrative support personnel.

Conclusions:

The fundamental issue to be addressed in this study was the degree of overlap that exists among state law enforcement agencies. Given the enforcement powers granted to these agencies by statute, the potential for duplication exists. However, based upon agency practices, the overlap appears to be minimal when comparing enforcement functions performed by the Department of the Lottery, the Marine Resources Commission, and the Department of Game and Inland Fisheries with those performed by DSP. Based upon arrest statistics, there appears to be some overlap in the enforcement efforts of the Department of Motor Vehicles (DMV) and DSP. However, when the entire range of activities performed by the enforcement arm of DMV is reviewed, only a small portion of their total activities are similar to State Police enforcement efforts. It does appear that the DMV/DSP Auto Theft Unit should be under the single management of the Department of State Police. There also appears to be some similarity in the criminal enforcement efforts of the Department of Alcoholic Beverage Control and the Department of State Police, the extent of which could not be determined. The overlap, however, appears to be largely a result of the integrated nature of their regulatory and criminal responsibilities.

The concept of merging or consolidating entities with common missions, goals, and objectives does not appear to apply where these agencies are concerned. Enforcement tends to be one of many activities these specialized agencies perform to serve their unique constituencies. Thus, there appears to be little congruency between the focus of these agencies and the overall mission of the State Police.

If attaining economies of scale is the compelling reason for considering consolidation, there is no indication that any economic advantage would be a reality. It is anticipated that an initial increase in overall costs would be experienced, as has been the case in some other states. Unless the agencies that are absorbed are capable of transferring administrative support staff as part of the consolidation, there would be additional administrative costs incurred by the State Police. During this preliminary assessment of feasibility, the extent to which specialized agencies would be able to support their remaining staff with fewer administrative positions could not be determined. However, it does appear that certain economies could be achieved through the utilization of shared facilities and communications systems. This could be accomplished without the transfer of enforcement functions, but would require additional study to determine the most efficient method of combining those resources.

In terms of efficiency, a number of agencies expressed concern related to the integrated nature of the job functions they perform. In most cases, these agencies have regulatory responsibilities as well as enforcement responsibilities, with regulatory violations often precipitating the discovery of criminal violations, and vice versa. In some instances, it could be difficult to completely segregate these functions. There is also concern over the inefficiencies that could result from enforcement and regulatory personnel operating in separate organizations and sharing databases and other information that would need to be retained by the specialized agency. The assumption has been that a consolidation would only involve enforcement responsibilities. It is questionable whether it would be advantageous to train and equip State Police sworn personnel to perform regulatory functions. However, many configurations of a workable and efficient "public safety department" are possible.

The estimated total additional cost of consolidation ranges from \$249,977 (assuming that an agency's law enforcement functions are transferred to the Department of State Police "as is"; i.e., there is no change in focus for the staff involved, the existing salary structure is maintained, existing equipment is transferred along with the positions, there is no change in the retirement program, and only minimal additional training is provided to familiarize staff with State Police policies and procedures) to \$1,913,118 (assuming that law enforcement functions are fully integrated into the existing State Police structure). Given the many decisions that must be made prior to consolidation, as well as during the consolidation process, and the number of largely unknown factors at this point, the total cost could exceed the \$1.9 million estimate.

Additional study would be required to plan and effect a smooth transition of law enforcement functions to the Department of State Police. If consolidation is pursued, a one-year transition period should be established to resolve the issues addressed in this report and allow adequate time to complete the initiative. Initially, a separate bureau of special operations within the State Police could be established, with the long-term goal of further restructuring the Department to more effectively merge the various functions and create a more efficient operation. An implementation team, composed of representatives from all affected agencies, could be established to plan and monitor the transition of responsibilities and resources.

Any legislation enacted to effect a consolidation should allow sufficient flexibility so that internal decisions, such as classification decisions, can be made by the acquiring agency which do not jeopardize the agency's organizational structure, violate policies, or create an "unequal pay for equal work" situation. Conversely, any appropriations language should be sufficiently specific regarding the transfer of resources to mitigate the negotiations that would be required to effectively absorb additional responsibilities.

21.
17
42

Appendix C

Constituent Positions Concerning the Proposed Merger

This appendix contains written comments received by the Secretary of Public Safety during the planning process along with comments presented at a public hearing was conducted on August 19, 2003. During this hearing, some speakers did not provide written comments. In this instance, their positions are included below:

<u>Speaker</u>	<u>Representing:</u>	<u>Comments</u>	<u>Position</u>
Mr. Dennis Gallagher	Virginia Beer Wholesalers	Written/Oral	Opposed
Mr. Charles Duvall	Virginia Wine Wholesalers	Written/Oral	Opposed
	Southland Corporation		
Mr. Michael O'Conner	Virginia Petroleum, Convenience & Grocery Association	Oral	Opposed
Mr. Thomas Lisk	Virginia Hospitality and Travel Association	Oral	Opposed
Mr. Daniel Durrett	Virginia Police Benevolent Association	Oral	No Position
Chief Henry W. Stanley	Henrico County Police	Written	Support

**Comments to be made by the Virginia Beer Wholesalers Association
at a Public Hearing on August 19, 2003 to be Conducted by the
Secretary of Public Safety Regarding the Consolidation of ABC's Law
Enforcement Function With the Department of State Police**

**I. ALCOHOL CONTROL MISSION: TRANSFER OF
ENFORCEMENT FUNCTION TO THE DEPARTMENT OF STATE
POLICE WILL FRAGMENT THE STATE'S ALCOHOL CONTROL
EFFORTS.**

**REPORT OF THE GOVERNOR'S TASK FORCE TO COMBAT
DRIVING UNDER THE INFLUENCE OF DRUGS AND ALCOHOL**

THE GOVERNOR'S BI-PARTISAN TASK FORCE TO COMBAT DRIVING UNDER THE INFLUENCE OF DRUGS AND ALCOHOL RECENTLY CONCLUDED ITS YEAR-LONG STUDY AND MADE SEVERAL IMPORTANT RECOMMENDATIONS CONCERNING THE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL, CHIEF AMONG THEM THAT THE DEPARTMENT SHOULD CONTINUE TO FUNCTION AS THE FOCAL POINT OF VIRGINIA'S ALCOHOL ENFORCEMENT RESPONSIBILITIES.

THE TASK FORCE, WHICH INCLUDED LEGISLATORS, LAW ENFORCEMENT PERSONNEL, TREATMENT PROFESSIONALS AND OTHERS, CONDUCTED ITS STUDY MINDFUL OF THE COMMONWEALTH'S SERIOUS BUDGET CONSTRAINTS AND NOTED

IN ITS PRINCIPAL ABC RECOMMENDATION THAT CONTINUING THE AGENCY'S HISTORIC CONTROL FUNCTION WILL ADD NO NEW COSTS TO THE BUDGET.

SPECIFICALLY, THE TASK FORCE SAID THAT ABC SHOULD: (I) RETAIN THE RESPONSIBILITY FOR THE WHOLESALE DISTRIBUTION AND RETAIL SALE OF DISTILLED SPIRITS; (II) RETAIN RESPONSIBILITY FOR THE ENFORCEMENT OF LAWS RELATED TO THE SALE AND DISTRIBUTION OF ALCOHOL; (III) RETAIN ITS AUTHORITY TO LICENSE MANUFACTURERS, WHOLESALERS AND RETAILERS; AND (IV) CONTINUE ITS DUTIES TO PROVIDE TRAINING FOR ALCOHOL SERVERS AND RETAILERS.

IMPORTANTLY, THE TASK FORCE ALSO RECOMMENDED THAT THE DEPARTMENT OF ABC SHOULD EXPAND EFFORTS TO CREATE AND SUPPORT COMMUNITY AND COLLEGE COALITIONS DESIGNED TO PREVENT UNDERAGE AND EXCESSIVE DRINKING. RATHER THAN ENHANCING THIS IMPORTANT MISSION, WE BELIEVE THAT THE TRANSFER OF ABC LAW ENFORCEMENT TO THE STATE POLICE WILL, IN THE EYES OF THE PUBLIC AND THOSE CONCERNED MOST DIRECTLY WITH OUR YOUTH, BE VIEWED AS DE-EMPHASIZING THE STATE'S ALCOHOL CONTROL RESPONSIBILITIES.

THE GOVERNOR'S TASK FORCE ACKNOWLEDGED THAT MUCH PROGRESS HAS BEEN MADE IN PREVENTING DRUNKEN DRIVING.

THE TASK FORCE'S AMBITIOUS RECOMMENDATIONS, HOWEVER, DO NOT POINT TOWARD LESS EMPHASIS ON THESE PROBLEMS BUT INSTEAD CALL FOR A RENEWED FOCUS TOWARD THEIR SOLUTION AND A CENTRAL AGENCY WITH ALCOHOL CONTROL AS ONE OF ITS PRINCIPAL MISSIONS.

THE TASK FORCE FURTHER RECOMMENDED THAT THE ABC DEPARTMENT SHOULD EXPAND ITS ENFORCEMENT TRAINING AND EDUCATION PROGRAMS FOR ALCOHOL RETAILERS. WE BELIEVE THAT ONE REASON ABC TRAINING PROGRAMS FOR ALCOHOL RETAILERS ARE MORE LIKELY TO BE EFFECTIVE THAN NOT IS BECAUSE ABC ALSO LICENSES AND REGULATES THESE RETAILERS AND HAS THE POWER TO PUT THEM OUT OF BUSINESS IF THEY VIOLATE ALCOHOL STATUTES AND REGULATIONS. IF THE ENFORCEMENT FUNCTION IS TRANSFERRED TO THE STATE POLICE, WE BELIEVE THAT THE EFFECTIVENESS OF ABC TRAINING PROGRAMS COULD BE UNDERMINED AS THIS MISSION FIGHTS FOR ATTENTION IN AN ALREADY BUSY AGENCY.

THE ATTORNEY GENERAL'S TASK FORCE ON DRINKING BY COLLEGE STUDENTS

THIS 1998 STUDY, LED BY FORMER ATTORNEY GENERAL MARK EARLEY, REACHED A NUMBER OF CONCLUSIONS SIMILAR TO THOSE OF GOVERNOR WARNER'S TASK FORCE. SPECIFICALLY, THE EARLEY TASK FORCE SAID THAT ABC MUST BE VIEWED AS

A KEY PLAYER IN VIRGINIA'S EFFORTS TO ELIMINATE UNDERAGE ACCESS TO AND CONSUMPTION OF ALCOHOLIC BEVERAGES. WE BELIEVE THAT THE TRANSFER OF LAW ENFORCEMENT WILL SERIOUSLY UNDERCUT THIS EFFORT WHICH WE ALL KNOW REQUIRES A LONG TERM COMMITMENT AND THE AVAILABILITY OF PERSONNEL WITH THE KINDS OF EXPERTISE CURRENTLY AVAILABLE ONLY AT ABC.

ATTORNEY GENERAL EARLEY'S SPECIFIC TASK FORCE RECOMMENDATIONS – THAT ABC SHOULD BE VIGOROUSLY INVOLVED IN ENFORCING ALCOHOL LAWS WITH CAMPUS AND LOCAL POLICE, THAT ABC SHOULD ASSIGN MORE PERSONNEL TO COLLEGE LOCALITIES, ETC. – POINT TO MORE FUNDING FOR THE DEPARTMENT AND MORE EMPHASIS ON THE AGENCY'S ENFORCEMENT MISSION RATHER THAN LESS.

THE EARLEY TASK FORCE ALSO RECOMMENDED THAT ABC SHOULD MOUNT EVEN MORE VIGOROUS LICENSEE ENFORCEMENT EFFORTS AND CALLED ON PRIVATE INDUSTRY TO REFRAIN FROM OVERLY AGGRESSIVE AND INTRUSIVE ADVERTISING AND MARKETING PRACTICES. INSURING LICENSEE COMPLIANCE AND PROMULGATING RULES TO MAINTAIN A MODERATE ADVERTISING CLIMATE ARE NATURAL FUNCTIONS FOR THE AGENCY, WHICH HAS BEEN DISCHARGING THEM SINCE 1934. FURTHER, THESE FUNCTIONS ARE IMPORTANT TO THE PUBLIC SAFETY OF OUR CITIZENS, IMPORTANT TO THE HEALTH OF OUR INDUSTRY, AND

WE ARE CONCERNED THAT THEY WILL BE LOST WITHIN THE
DEPARTMENT OF STATE POLICE.

II. IMPACT ON THE BUSINESS COMMUNITY: THE PLAYERS
KNOW THE RULES AND THE UMPIRES KNOW THE PLAYERS.

ABC AFFECTS A MAJOR PORTION OF VIRGINIA'S ECONOMY, I.E.,
17,000 LICENSED RESTAURANTS, GROCERY STORES,
CONVENIENCE STORES, HOTELS, RESORTS, MARINAS AND THE
LIKE. THE DEPARTMENT ALSO DIRECTLY AFFECTS MANY
BUSINESSES WHOSE ONLY BUSINESS INVOLVES THE
MANUFACTURE OR DISTRIBUTION OF ALCOHOL, I.E., DISTILLERS,
WINERIES, BREWERIES, BEER WHOLESALERS AND WINE
WHOLESALERS.

ALL TOLD, THERE ARE APPROXIMATELY 18,000 ENTERPRISES IN
THE STATE OF VIRGINIA THAT HAVE A DIRECT LICENSEE
RELATIONSHIP WITH ABC. THESE ENTITIES HAVE AN
UNDERSTANDING OF THE AGENCY'S RULES, THEY KNOW WHAT
TO EXPECT FROM DEPARTMENT PERSONNEL, THEY HAVE
LEARNED TO LIVE WITH LIMITATIONS ON OVERLY AGGRESSIVE
ADVERTISING AND MARKETING PRACTICES, AND THEY
UNDERSTAND THE CONSEQUENCES OF VIOLATING ABC
STATUTES AND REGULATIONS. THESE VIOLATIONS, FOR

EXAMPLE, CAN RESULT IN MONETARY SANCTIONS AND LOSS OF LICENSE.

IN OTHER WORDS, THE PLAYERS KNOW THE RULES AND THE UMPIRES KNOW THE PLAYERS. FOR THOSE OF US WHO PREFER A MORE TIGHTLY REGULATED ENVIRONMENT WHEN IT COMES TO ALCOHOL, TRANSFERRING ABC ENFORCEMENT TO A LARGELY DIFFERENT CULTURE IS NOT REASSURING.

ANOTHER CONCERN THAT SOME OF US HAVE IS THE LIKELIHOOD THAT TRANSFERRING THE AGENCY'S ENFORCEMENT FUNCTIONS TO ANOTHER PART OF STATE GOVERNMENT WILL BE VIEWED WITHIN THE LICENSEE COMMUNITY AS A MAJOR DE-ESCALATION OF CONTROL. SHOULD THIS OCCUR, IT IS FORESEEABLE THAT LICENSEES WILL BECOME MORE AGGRESSIVE IN THEIR BUSINESS PRACTICES. THE CONSEQUENCES OF THESE ACTIVITIES ARE WORRISOME SINCE THEY COULD LEAD TO THE ALCOHOL INDUSTRY'S ACQUIRING THE SAME SORT OF LIABILITY PROBLEMS ALREADY VISITED ON THE TOBACCO INDUSTRY.

EVERY YEAR, BEER AND WINE WHOLESALERS REMIT APPROXIMATELY \$65,000,000 IN EXCISE TAXES TO ABC. THIS SEGMENT OF THE INDUSTRY ALSO REMITS A SUBSTANTIAL AMOUNT OF FUNDS IN ANNUAL LICENSE TAXES. AT THE MOMENT, THE EFFECT OF THESE TAX PAYMENTS ON THE MISSION OF ABC IS RELATIVELY TRANSPARENT, AND THERE IS A

SUBSTANTIAL AMOUNT OF ACCOUNTABILITY FOR THE USE OF THESE FUNDS. WE ARE CONCERNED THAT THIS TRANSPARENCY AND ACCOUNTABILITY WILL BE COMPROMISED OR SACRIFICED IF A MAJOR FUNCTION OF ABC IS TRANSFERRED TO ANOTHER PART OF THE STATE BUREAUCRACY.

TODAY, ABC IS CHARGED WITH ADJUDICATING CONFLICTS OCCASIONALLY ARISING BETWEEN BEER WHOLESALERS AND BREWERIES AND BETWEEN WINE WHOLESALERS AND WINERIES. THE RECORD-KEEPING THAT GOES WITH THE AGENCY'S MISSION REGARDING THE ADJUDICATION OF THESE CONTROVERSIES IS PART OF THE BUREAU OF LAW ENFORCEMENT'S FUNCTION. IT DOES NOT APPEAR TO THE WHOLESALE COMMUNITY THAT THERE WOULD BE ANY PURPOSE SERVED BY TRANSFERRING THIS FUNCTION TO THE DEPARTMENT OF STATE POLICE WHEN THE ULTIMATE RESOLUTION OF THESE DISPUTES HAS TO OCCUR AT ABC THROUGH ITS HEARINGS DIVISION AND, ULTIMATELY, THROUGH THE BOARD ITSELF.

AS BUSINESS REPRESENTATIVES, WE ARE VITALLY CONCERNED THAT THE TRANSFER OF ABC'S LAW ENFORCEMENT FUNCTION TO THE DEPARTMENT OF STATE POLICE COULD LEAD TO A SIGNIFICANT INCREASE IN ALCOHOL TAXES AND LICENSE FEES TO PAY FOR THE INEVITABLE INCREASE IN COSTS THAT SUCH A TRANSFER WILL OCCASION. PUT SIMPLY: THERE IS NO WAY TO AFFECT EVEN A SMALL SCALE TRANSFER WITHOUT INCURRING

EXPENSE, COSTS WHICH WE FEAR WILL ULTIMATELY BE PAID BY THE LICENSEE COMMUNITY. ABSENT THE PRESENTATION OF DATA SHOWING THAT SIGNIFICANT AND LONG-TERM COST SAVINGS TO THE COMMONWEALTH WILL RESULT FROM SUCH A TRANSFER, WE MUST OPPOSE ANY SUCH PROPOSAL ON THIS GROUND ALONE.

FINALLY, ALLOW US TO COMMENT BRIEFLY ON THE MOST RECENT STUDY OF THIS ISSUE. SENATE DOCUMENT NUMBER 27 OF THE 1996 SESSION, WHICH EXAMINED *OVERLAPPING POLICE POWERS IN STATE AGENCIES*, FOUND THAT THE CONCEPT OF MERGING OR CONSOLIDATING ENTITIES WITH COMMON MISSIONS, GOALS, AND OBJECTIVES DOES NOT APPEAR TO APPLY WHERE THESE AGENCIES ARE CONCERNED. FOR THIS STUDY, THE AGENCIES IN QUESTION WERE: THE STATE POLICE, ABC, LOTTERY, MARINE RESOURCES AND GAME AND INLAND FISHERIES. THE STATE POLICE IS THE ONLY AGENCY DEDICATED TO GENERAL LAW ENFORCEMENT. THE MISSIONS, GOALS AND OBJECTIVES OF THE SPECIALIZED LAW ENFORCEMENT AGENCIES ARE TAILORED TO THE UNIQUE ROLE EACH PLAYS IN STATE GOVERNMENT. ENFORCEMENT TENDS TO BE ONE OF MANY ACTIVITIES THESE SPECIALIZED AGENCIES PERFORM TO SERVE THEIR UNIQUE CONSTITUENCIES. THUS, THERE SEEMS TO BE LITTLE CONGRUENCY BETWEEN THE FOCUS OF THESE AGENCIES AND THE OVERALL MISSION OF THE STATE POLICE.

THIS STUDY ALSO CONCLUDED THAT, WHILE THERE IS SOME SIMILARITY IN THE CRIMINAL ENFORCEMENT EFFORTS OF ABC AND THE DEPARTMENT OF STATE POLICE, THE OVERLAP “APPEARS TO BE LARGELY A RESULT OF THE INTEGRATED NATURE OF THEIR REGULATORY AND CRIMINAL RESPONSIBILITIES.”

IN OTHER WORDS, ABC IS INVOLVED IN CRIMINAL ENFORCEMENT BECAUSE IT IS REGULATING AN ENORMOUS INDUSTRY OF LICENSEES. IT FOLLOWS, THEN, THAT SEVERING THE TWO FUNCTIONS – BY TRANSFERRING PERSONNEL OR REDRAFTING STATUTES TO REALIZE THE SAME RESULT – IS NOT A GOOD IDEA.

THE REGULATORY AND ENFORCEMENT FUNCTIONS, THEN, GO HAND-IN-HAND AND CONTRIBUTE TO A BUSINESS ENVIRONMENT FOR ALCOHOL THAT’S CLEAN, ABOVE BOARD AND WELL WITHIN THE MAINSTREAM OF PUBLIC ACCEPTANCE. WE ASK YOU, WITH ALL DUE RESPECT, TO KEEP IT THAT WAY.

THANK YOU FOR THIS OPPORTUNITY. I WILL CLOSE BY ASKING FOR THE CHANCE TO REVIEW YOUR RECOMMENDATIONS BEFORE THEY ARE SUBMITTED TO THE LEGISLATURE SO THAT THE GENERAL ASSEMBLY MIGHT HAVE THE LICENSEE COMMUNITY’S PERSPECTIVE AT THE SAME TIME AS YOUR OWN IS BEFORE THESE POLICYMAKERS.

Cory Barry

April 11, 2003



The Honorable John William Marshall
Secretary of Public Safety
Commonwealth of Virginia
202 N. 9th St., Ste. 613
Richmond, VA 23219

Reference Item 401 #3C 2002-2004 Budget Bill

Dear Mr. Secretary:

The Virginia Wine Wholesalers Association Incorporated would like to offer you our services as you and your staff deliberate on Item 401 #3C contained in the budget recently adopted by the General Assembly (See copy attached).

The Membership of the Virginia Wine Wholesalers Association Incorporated feels that Virginia should be proud of the Bureau of Law Enforcement Operations of the Department of Alcoholic Beverage Control and the work that they perform.

Equally, we feel we should be proud of the work performed by the Department of the State Police.

Each of these agencies performs a vital and different service.

We would hope that your office and the Administration understand the difference in the services provided by these two agencies and would not submit a proposal that would diminish that service by trying to merge their operations. From our perspective, they seem to cooperate fully and a merger of their operations would possibly diminish the ability of both agencies to perform as they have.

Again, we would be delighted to assist you in any way you and your staff would deem appropriate as you move forward with this review.

Sincerely,

Charles R. Duvall, Jr.
Administrative Vice President

CRD/at

Attachment



Virginia Petroleum, Convenience and Grocery Association

6716 Patterson Avenue, Suite 100, Richmond, VA 23226
(804) 282-7534 (800) 552-9819 FAX (804) 282-7777 www.vpcga.com

*Mr. Barry
ABC
draft response
4/18/03*

BOARD OF DIRECTORS

Donald B. Allen, Jr
Chairman of the Board

Douglas E. Quarles, III
First Vice Chairman

Barry C. Grizzard
Second Vice Chairman

James C. Emmart
Secretary-Treasurer

Bruce E. Arkema
Legal Counsel

Gene Arnette

Alan Atwood

Bonnie Burley

Mike Duncan

Tony K. Elliott

Richard W. Edwards

Ben W. Henderson

Mark E. (Chip) Holt, III

Larry A. King

Thomas M. Leonard

Ted Lester

Warren Loftis

Ronald N. Lundy

John F. Malbon

Ronald L. Prewitt

James Rogers, Sr.

John R. Seibert

B. J. Smith

Roy D. Templeton

L. S. (Stan) Terhune, III

Lewis E. Wall, Jr.

John A. Watts

Jack Woodfin

Michael J. O'Connor
President

April 15, 2003



Honorable John W. Marshall
Secretary of Public Safety
Commonwealth of Virginia
PO Box 1475
Richmond VA 23218

Dar Secretary Marshall:

It is my understanding that your office will soon be undertaking a study of possible changes in the enforcement Virginia's alcoholic beverage control laws.

Members of Virginia Petroleum Convenience and Grocery Association own more than 6,000 ABC off premises locations across the Commonwealth. As such, our members have a great interest in these deliberations, and I would appreciate the opportunity to participate as a member of any working group that may formed by your office to examine the future of Virginia's ABC enforcement.

Thank you for your consideration of this request.

Sincerely,

Michael J. O'Connor

cc: Robert P. Crouch, Jr.

Virginia Neighbors Serving Neighbors

Appendix D

Legislation Required to Implement Option Two

§ 4.1-103.01. Additional powers; access to certain tobacco sales records; inspections; penalty.

A. Notwithstanding the provisions of § 58.1-3 or any other provision of law, the Tax Commissioner shall provide to the ~~Board~~ Superintendent of State Police the name, address, and other identifying information within his possession of all wholesale cigarette dealers.

B. All invoices, books, papers or other memoranda and records concerning the sale of cigarettes maintained by wholesale cigarette dealers pursuant to § 58.1-1007 shall be subject to inspection during normal business hours by special agents of the ~~Board~~ State Police Bureau of Criminal Investigation. Any person who, upon request by a special agent, unreasonably fails or refuses to allow an inspection of the records authorized by this subsection shall be guilty of a Class 2 misdemeanor.

C. The ~~Board~~ Superintendent of State Police may use the information obtained from the Tax Commissioner or by the inspections authorized by subsection B only for the purpose of creating and maintaining a list of retail dealers to facilitate enforcement of the laws governing the sale of tobacco products to minors. Neither the ~~Board~~ Superintendent nor any special agent shall divulge any information provided by the Tax Commissioner or obtained in the performance of the inspections authorized by subsection B to anyone other than to another special agent. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

§ 4.1-204. Records of licensees; inspection of records and places of business.

A. Manufacturers, bottlers or wholesalers. - Every licensed manufacturer, bottler or wholesaler shall keep complete, accurate and separate records in accordance with Board regulations of all alcoholic beverages purchased, manufactured, bottled, sold or shipped by him, and the applicable tax required by § 4.1-234 or § 4.1-236, if any.

B. Retailers. - Every retail licensee shall keep complete, accurate and separate records, in accordance with Board regulations, of all purchases of alcoholic beverages, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every retail licensee shall also preserve all invoices showing his purchases for a period as specified by Board regulations. He shall also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor. Except as otherwise provided in subsection D, such account need not give the names or addresses of the purchasers thereof, except as may be required by Board regulation for the sale of alcoholic beverages in kegs. In the case of persons holding retail licenses which require sales of food to determine their qualifications for such licenses, the records shall also include purchases and sales of food and nonalcoholic beverages.

C. Common carriers. - Common carriers of passengers by train, boat, or airplane shall keep records of purchases and sales of alcoholic beverages and food as required by Board regulation.

D. Wine shippers and beer shippers. - Every wine shipper licensee and every beer shipper licensee shall keep complete, accurate, and separate records in accordance with Board regulations of all shipments of wine or beer to persons in the Commonwealth. Such licensees shall also remit on a monthly basis an accurate account stating whether any wine, farm wine, or beer products were sold and shipped and, if so, stating the total quantities of wine and beer sold and the total price charged for such wine and beer. Such records shall include the names and addresses of the purchasers to whom the wine and beer is shipped.

E. Inspection. - ~~The Board and its special agents~~ Special Agents of the State Police Bureau of Criminal Investigation shall be allowed free access during reasonable hours to every place in the Commonwealth and to the premises of every wine shipper licensee and beer shipper licensee wherever located where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein. The Board may engage the services of alcoholic beverage control authorities in any state to assist with the inspection of the premises of a wine shipper licensee or a beer shipper licensee or any applicant for such license.

§ 52-8. Powers and duties to enforce criminal laws and investigate aircraft accidents.

The Superintendent of State Police, his several assistants and police officers appointed by him are vested with the powers of a sheriff for the purpose of enforcing all the criminal laws of this Commonwealth and the provisions of Title 4.1, and for investigating any aircraft accident which occurs in the Commonwealth, and it shall be the duty of the Superintendent, his several assistants and police officers appointed by him to use their best efforts to enforce the same.

Nothing in this section shall be construed as relieving any sheriff or sergeant, commissioner of the revenue, police officer, or any other official now or hereafter invested with police powers and duties, state or local, from the duty of aiding and assisting in the enforcement of such laws within the scope of his authority and duty.